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# *Commission Meeting*

of

## STATE HOUSE COMMISSION

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**LOCATION:** Committee Room 14  
State House Annex  
Trenton, New Jersey

**DATE:** December 11, 2006  
9:15 a.m.

### **MEMBERS OF COMMISSION PRESENT:**

Judith L. Lieberman, Chair  
(Representing Governor Jon S. Corzine)  
Senator Bernard F. Kenny Jr.  
Senator Bob Smith  
Senator Walter J. Kavanaugh  
Assemblyman Louis M. Manzo  
Assemblywoman Marcia A. Karrow  
Charlene M. Holzbaur  
Robert L. Smartt



### **ALSO PRESENT:**

Samuel Crane  
*Secretary*

Robert J. Shaughnessy, Esq.  
*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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**JUDITH L. LIEBERMAN (Chair):** Good morning, everyone. This is the meeting of the State House Commission. We are in compliance with the Open Public Meetings Act and are ready to proceed.

Mr. Crane, will you please call the roll?

**MR. CRANE (Secretary):** Counsel Lieberman.

**MS. LIEBERMAN:** Here.

**MR. CRANE:** Deputy Treasurer Smartt.

**DEPUTY TREASURER SMARTT:** Here.

**MR. CRANE:** Director Holzbaur.

**MS. HOLZBAUR:** Here.

**MR. CRANE:** Senator Kavanaugh.

**SENATOR KAVANAUGH:** Here.

**MR. CRANE:** Assemblywoman Karrow.

**ASSEMBLYWOMAN KARROW:** Here.

**MR. CRANE:** You have a quorum, Madam Chair.

The first item of business is to approve the minutes of September 27, 2006, State House Commission meeting.

**ASSEMBLYWOMAN KARROW:** So moved.

**MS. LIEBERMAN:** Second.

**MR. CRANE:** All in favor? (ayes respond)

None opposed? (no response)

Approved.

The first item on the agenda, action item beyond the minutes, is item No. 2. This is an item that has been before the State House Commission before. This is for the disposition of a piece of property to the Trenton Board of Education, through the State's Schools Construction Corporation. The original agreement was for \$220,000. After further engineering and review, a great portion of this piece of property has been restricted for a variety of uses, including easements for utility and drainage. It is back before you, to lower the amount to \$120,000.

**SENATOR KAVANAUGH:** So moved.

**ASSEMBLYWOMAN KARROW:** Second.

**MR. CRANE:** All in favor. (ayes respond)

Opposed? (no response)

Approved.

Item No. 3 is an item that has been before you as well. On June 15, 2006, you approved a request to allow a subservice easement in Overpeck Creek Park, in Bergen County. At the time, a -- one small parcel

was not included -- it totals 0.117 acres -- that needs to be added to the easement. As you may recall, \$700,000 is being paid from the utility authority to the county for purchase of additional parkland. So this is a corrective action from a previous approval.

SENATOR KAVANAUGH: So moved.

ASSEMBLYWOMAN KARROW: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

The next items, No. 4 through 13, are all the Department of Treasury requests on the behalf of other operating departments.

No. 4 is to lease a DEP residential property located at 86 Meadow Avenue to Ron -- I believe that's Wierks.

ASSEMBLYWOMAN KARROW: Moved.

SENATOR KAVANAUGH: Do we do them all at once?

MR. CRANE: No. I was going to go through them one by one. There may be some questions on some of these.

SENATOR KAVANAUGH: All right.

MS. LIEBERMAN: Second.

MR. CRANE: All in favor? (ayes respond)

Okay.

No. 5 is the Department of Law and Public Safety, to dispose of a commercial property that was acquired through seizure. This disposal will be done by Internet auction.

ASSEMBLYWOMAN KARROW: Moved.

MS. HOLZBAUR: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

Approved.

No. 6: This is a lease -- another lease of a DEP property, at the Manasquan Watershed.

ASSEMBLYWOMAN KARROW: Moved.

SENATOR KAVANAUGH: Question. Is it normal that the lease would include the utility and heating oil be paid by the State? I haven't seen that before.

MR. CRANE: Is there somebody here who can answer the question related to this item?

The Senator's question is, is that normally utilities and heat are paid by the lessee. In this particular case, the State is going to pay them. Is that a different policy? This is No. 6, Gene.

**EUGENE HAYMAN:** This is a multifamily house, that's why. There's no way for us to separate the utilities. So what we do is, we just come up with a formula to increase the rent a little bit.

**SENATOR KAVANAUGH:** Okay.

Thank you.

**MR. CRANE:** Motion?

**ASSEMBLYWOMAN KARROW:** I made it.

**MR. CRANE:** All in favor? (ayes respond)

Opposed? (no response)

The next one is Department of Human Services, to lease some grounds to the Family Services of Burlington County -- they are a service provider to the Division of Mental Health -- to be used as a group home.

**SENATOR KAVANAUGH:** Move it.

**ASSEMBLYWOMAN KARROW:** Second.

**MR. CRANE:** All in favor? (ayes respond)

No. 8 on the agenda: these are Human Services leased, on the Ancora Psychiatric Hospital, to Catholic Charities. They are like the earlier one, a service provider to the Division of Mental Services, and they're to be used as group homes.

**ASSEMBLYWOMAN KARROW:** Moved.

**SENATOR KAVANAUGH:** Second.

**MR. CRANE:** All in favor? (ayes respond)

Opposed? (no response)

Senator, I do want to loop together 9, 10, and 11. These are three different actions, but they are all to facilitate one contract that's for the Devereux Foundation. These are for the development of group homes. They are under contract with the Division, as were the earlier. And 9, 10, and 11, the way I read them, are just different blocks or different pieces of the same contract to create these services.

**ASSEMBLYWOMAN KARROW:** Moved.

**SENATOR KAVANAUGH:** Second.

**MR. CRANE:** All in favor? (ayes respond)

Opposed? (no response)

Done.

No. 12 is on behalf of the Department of Corrections. They're going to dispose of 50-plus acres of surplus vacant land to the Borough of Buena. This land is going to be used for the expansion of the Black Water Pond Park.

ASSEMBLYWOMAN KARROW: Moved.

SENATOR KAVANAUGH: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

None.

And the last one under the Department of Treasury is-- This is an approval of a lease for two rooms at the Old Barracks Museum, right up the street, to the Crossroads of the American Revolution Association.

ASSEMBLYWOMAN KARROW: Moved.

MS. HOLZBAUR: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

None.

No. 14 is a request from the Department of Human Services. These are to set -- correct me if I'm wrong, Director Holzbaur -- a series of reimbursement rates. And I understand that these are consistent with what's contained in the State budget.

MS. HOLZBAUR: That's true.

MR. CRANE: That's true. So this is -- annually, the State House Commission approves these reimbursement rates, consistent with the budget. They are on a calendar year, as opposed to a fiscal year -- you see, I actually remember something -- so Human Services seeks our approval of these rates, effective January 1, 2007.

SENATOR KAVANAUGH: Move it.

ASSEMBLYWOMAN KARROW: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

Done.

No. 16 through 31, Senator, we will do these individually, but they are all from the Department of Transportation. And we'll see if anyone has any difficulty with any.

No. 16 requests approval to exchange, with Somerset County, a 5,510-square-foot, corner parcel in exchange for a 1,862-square-foot parcel, related to intersection improvements.

SENATOR KAVANAUGH: So moved.

ASSEMBLYWOMAN KARROW: Second.

MR. CRANE: All in favor? (ayes respond)

No. 17 is the Division of Right of Way, again. They want to sell a 3,699-square-foot parcel to an adjoining property owner for -- as a landscape buffer and for a sign advertising for the business on the premises. This is in Galloway Township, Atlantic County.

ASSEMBLYWOMAN KARROW: Moved.

SENATOR KAVANAUGH: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

Next one is in Clinton Township, in Hunterdon County: Sale of 0.23 acre parcel of vacant land to an adjoining property owner; in this case, the Montessori School, a non-profit organization.

ASSEMBLYWOMAN KARROW: Moved.

SENATOR KAVANAUGH: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

No. 19 is in Galloway Township, Atlantic County: Requests approval to sell a 9,413-square-foot commercial highway-zoned parcel to the adjoining property owner for use as additional parking.

SENATOR KAVANAUGH: So moved.

ASSEMBLYWOMAN KARROW: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

No. 20 is in Newark, in Essex County: The Division of Right of Way, again, requests approval to sell a surplus 3,050-square-foot residential zoned parcel by auction.

SENATOR KAVANAUGH: So moved.

ASSEMBLYWOMAN KARROW: Second.

MR. CRANE: All in favor? (ayes respond)

In Saddlebrook Township, Bergen County: Requests approval to sell 0.77 acre of vacant land by auction. The minimum starting bid is \$45,000, the appraised value.

SENATOR KAVANAUGH: So moved.

ASSEMBLYWOMAN KARROW: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

None.

No. 22 is in Newark, Essex County: Requests approval to sell a 6,250-square-foot parcel of vacant land by auction.

ASSEMBLYWOMAN KARROW: Moved.

SENATOR KAVANAUGH: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

No. 23, it's again the Division of Right of Way, requests approval to sell a 3,979-square-foot parcel, that was acquired as part of a turnaround area, to the adjoining property owners.

SENATOR KAVANAUGH: So moved.

ASSEMBLYWOMAN KARROW: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

In Paramus Borough, Bergen County: Division of Right of Way requests approval to sell a 4,334-square-foot, irregular-shaped parcel of property in a residential zone to the adjoining property owner.

SENATOR KAVANAUGH: So moved.

ASSEMBLYWOMAN KARROW: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

Done.

No. 25 is in Newark, Essex County: Division of Right of Way requests approval to sell a 8,505-square-foot parcel of vacant land located in a residential zone to potentially accommodate a three to four buildable residential home sales (*sic*).

MS. LIEBERMAN: I'll move it.

SENATOR KAVANAUGH: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

Approved.

The Division of Right of Way requests approval to sell a 3,431-square-foot parcel of vacant land that's zoned residential to a -- for a buildable residential home site. This will be sold at auction. The minimum starting bid price is \$120,000.

SENATOR KAVANAUGH: Move it.

MS. HOLZBAUR: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

Approved.

Division of Right of Way requests approval to sell 0.126 acre parcel of residential property to the adjoining property owner. This is in North Brunswick Township, Middlesex County.

SENATOR KAVANAUGH: Move it.

ASSEMBLYWOMAN KARROW: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

Approved.

No. 28, Division of Right of Way, Property Management Unit, requests approval to sell a 1,653-square-foot piece of property to the adjoining property owner as additional yard area. Sale price is \$6,500. That's the appraised value.

SENATOR KAVANAUGH: Move it.

ASSEMBLYWOMAN KARROW: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

Approved.

No. 29, again the Division of Right of Way, requests approval to sell a 0.604-acre parcel of vacant land to the adjoining property owner for assemblage purposes to create a commercial pad site. This is in Paulsboro Borough in Gloucester County.

SENATOR KAVANAUGH: So moved.

ASSEMBLYWOMAN KARROW: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

No. 30, Division of Right of Way requests approval to sell a 0.241-acre parcel along the White Horse Pike in Absecon. The property will be sold at auction to the highest bidder, pending appraisal, with a recommended minimum starting bid price of a fair market value.

ASSEMBLYWOMAN KARROW: Moved.

SENATOR KAVANAUGH: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

Camden, in Camden County: The Division of Right of Way requests approval to sell 0.660 acre of -- parcel of vacant land directly to the

Camden Redevelopment Agency for public use, to be used as part of the Gateway Redevelopment Plan Project.

SENATOR KAVANAUGH: Move it.

MS. LIEBERMAN: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

Approved.

We now move on to the Department of Environmental Protection requests:

No. 32, Woodland Township in Burlington County: Division of Parks and Forestry requests approval to lease 4-plus acres to the New Jersey Department of Law and Public Safety Division of State Police, for the purpose of maintaining a State Police facility.

MS. LIEBERMAN: Moved.

MR. CRANE: All in favor?

ASSEMBLYWOMAN KARROW: That was very good.

MR. CRANE: That was very good?

ASSEMBLYWOMAN KARROW: That was very good.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

No. 33, North Wildwood City, Cape May County: Division of Parks and Forestry requests approval to extend an existing lease with the City of North Wildwood for a historic lighthouse.

SENATOR KAVANAUGH: So moved.

ASSEMBLYWOMAN KARROW: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

None.

No. 34, Division of Fish and Wildlife requests approval to enter into five separate two-year leases to legalize the possession/occupancy of State lands by five separate marine business operators along the Maurice River. This is in Maurice Township, in Cumberland County.

ASSEMBLYWOMAN KARROW: It's Maurice. (indicating pronunciation)

MR. CRANE: Maurice.

ASSEMBLYWOMAN KARROW: Moved. Sorry.

It's Maurice. It's wrong.

MR. CRANE: I always called it *Maurice* (indicating pronunciation). All right. Maurice. All right.

You can correct me on the previous too, Assemblywoman.

Maurice, in Cumberland County.

SENATOR KAVANAUGH: So moved.

MR. CRANE: Second. There's a motion and a second.

All in favor? (ayes respond)

Opposed? (no response)

No. 35 is Stillwater Township, in Sussex County.

I want to note for the record that in the short title at the beginning of the description, it should be Lot 3203-A. There was an inconsistency in the documents, and we just want to correct it for the record.

Division of Parks and Forestry requests approval to lease a private residence located within the Stillwater Mill Historic Site. These are current tenants.

SENATOR KAVANAUGH: So moved.

ASSEMBLYWOMAN KARROW: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

Approved.

No. 36, Lambertville City, in Hunterdon County: Division of Parks and Forestry requests approval to enter into a five-year renewal agreement with the Swan Creek Rowing Club for the storage of rowboats on approximately one-quarter of an acre along the Delaware River.

ASSEMBLYWOMAN KARROW: Moved.

SENATOR KAVANAUGH: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

Okay.

No. 37, in Edison Township, Middlesex County: Division of Parks and Forestry requests approval to lease the area known as the Edison Memorial Tower, located within Edison State Park, to Edison Township for the restoration and preservation of this historic site.

ASSEMBLYWOMAN KARROW: Moved.

SENATOR KAVANAUGH: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

Item No. 38, Middletown Township, in Monmouth County: The DEP, on behalf of Middletown Township, requests approval to allow the diversion of approximately 0.72 acre of the Conifer Tract, a Green Acres-funded park, to be used as additional parking spaces, access, and emergency roadways, as part of a 180-unit senior citizen housing.

Ladies and gentlemen, we have one person who wishes to address the State House Commission on this matter. It's Mr. Mike Harmon. He has delivered some packets for the Commission to review. He has told me he has just a couple of matters he wants to discuss.

Please take a seat and state your name please, and we'll hear from you.

**MICHAEL G. HARMON:** Good morning.

My name is Mike Harmon. I'm an adjacent landowner, and they're working on this particular site since about 1989. In 2001, after a lengthy litigation, Atlantic Highlands and Middletown joined together and bought 25 acres from an outfit called Conifer. The deal was -- essentially started to be put together by a fellow by the name of Jack Westlake, in 2000. Atlantic Highlands was originally going to buy 17 acres. And what happened was, after that Middletown came in with a better deal and put some recreation into the package.

I think a picture sort of says a thousand words. (indicating drawing) And I have this, here, which shows the sort of before and after. I understand that this is probably not the place to negotiate, but sadly I've not had an opportunity to get before Green Acres. I've been on a planning board for 10 years. I've been on a harbor commission. I've been a councilman for 12 years. I've been a mayor for four years. I'm sort of retired from that, but I'm also a Monmouth County Recreation Commissioner, and have been doing that for 17 years. I know something about parks. And I also know Green Acres. I've known them for a long time; a lot of good people.

But in this particular case, I've had a lot of problems. Mr. Campbell, in 2005, came out with new rules that were supposed to strengthen the standards governing diversion of Green Acres, raise the bar against diversion. Local government seeking to divert land would be required greater public notice. Well, today is December 11, and the State House Commission should not really be voting on this. March at the earliest. We're not opposed to the whole diversion.

If you look at the map, you'll see next to the site there's some parking areas that the developer needs because of changes in age from 62 to 55. What we are opposed to -- the original plan calls for, under a Court settlement, two baseball fields and a soccer field. You'll see on this map, at the top, what the developer has done is put a road right through the middle of that soccer field. The soccer field is gone. Now, that soccer field was hard-won ground, and part of the settlement that Middletown was going to pay for, shared by all kids.

Instead, what they did to save money is, they combined two retention basins into one. And you'll see the retention basin that is right below that developer road. I have a lot of problems with this plan, as a park person. And I would just say, if you look at it, you'll see those baseball fields. And what they've done is, they've sort put the parking lots right where the kids will hit their home runs. They've put a developer road through the soccer -- and it's this big map, you'll see at the top. And you'll see that massive retention basin. It's a debacle.

They started cooking this up within weeks of receiving their Green Acres check in August of 2004. It did not come to light until 2006 -- something wrong here.

We were advised on September 7 that this was a major diversion. We were advised -- we also know they never had a scope hearing, which is required under your rules. The public hearing on this was November 9, 2006. That public hearing is supposed to be 90 days, or more, before it gets to you. When I found out about this, I said, "What's going on?" Green Acres would not return my e-mails, my phone calls, would not meet with me. I have a problem with that. And like I said, I've liked them a lot.

We were told, on September 7, the size of the requested diversion was significant -- this was from Dave Smith. The 0.60 diversion that they originally asked for was not adequate. They didn't even consider the road in the diversion originally, and they don't consider the retention basin in the diversion. You take that project out of this park, you don't need a retention basin. That's not even counted at all.

On or about October 4, the Green Acres senior management directed staff to ignore the 2005 rules, and I guess they went to the 2006 rules. The problem is, they never told anyone. I never found out about it until December 1. And my record is complete with all kinds of e-mails and letters. I don't do this out of love. I do own the property next to it, but I

like the land. It's a good opportunity, and I think these developers are coming in and taking property. I don't have a problem with the parking part of it. It's that second bite of the apple. The second bite of the apple, they figured that this is -- they're going to ram this through Green Acres. Somehow Green Acres goes along with this. And now what they're doing is, they come back to the road and that retention basin.

You'll see the initial road was along the highway, which was out of the way. So now what we've lost is a sledding area. There's a fellow in our town -- we have one place that kids can sleigh ride these days. His name is Bernie Sweeney (phonetic spelling). Some of you may know him. He's the only guy who lets people sleigh ride on his property. There used to be four places. The guy's great. He goes, "Mike, what am I going to do? I can't stop--" There's 70 kids on his property, sledding on his hill. So we decided that we were going to come up with a safe place to have sledding. Well, that's gone, because they put that road right in the middle of this park that we paid 3 million bucks for. Conifer got 3 million bucks for this property. And then within a couple of weeks, they want it back for nothing. There's something wrong there.

On November 27, we contacted the State House Commission, and Mr. Crane was very nice, I've got to say -- returned my phone call and let me know that he hadn't heard of this yet. No one knew. And I couldn't find out from Green Acres. We found out, on December 1, they were having a meeting.

Another thing, we filed OPRA. Green Acres never responded. We got-- They say they called me and left a message. I have a little trouble with that. I got an e-mail from the OPRA person last week asking for an extension. They never complied with their own records.

And getting into the rules -- and I don't know how far you want me to go, because I do get-- I want to paint the record, I'll only say, because I'm not sure if I'm going to appeal. There's this Web site up, if you want to check it out. But I don't have a lot to do right now, but this is something I woke up about. And if this is something that's going on regularly, we've got a problem. Green Acres works for the people, we don't work for them. There's -- no alternate analysis was done.

And the other thing, we found out the whole stumbling block here is \$384,000, which was the excess cost of these retention basins. First, there was going to be two. And I'll tell you, there was a law violation, which I won't get into specifically other than to say that the mayor of our

town met with Conifer, or the representative of Middletown met with Conifer, and they said, "Look, this upper basin cost is really the towns' cost. Okay?" The towns, for whatever reason -- I wasn't there, it was a private meeting, said "Yes, maybe it is, maybe it is." Three weeks later, they get a notice, a letter from Conifer -- "you owe us 400 grand." Now, these towns had no idea this was going to be 400 grand. At the end of the letter, which is all in your package, it says, "Well, forgetting this liability" -- which is not authorized, not appropriated, never voted on by any governing body, and it was not an amended contract -- they come back and they say, "But we'll swap you that liability," which was not legitimate, "for the soccer field." They're bartering with Green Acres land, behind the people's backs, since 2004.

And then they have the nerve to not have a scope hearing, which are required. Their application hearing was in October, and here we are today. There's something wrong here.

I've given a lot--

Yes, sir.

SENATOR KAVANAUGH: Madam Chair, I wonder if our counsel has heard -- the rhetoric has been put forward from Mr. Harmon. I wonder if he could review it, if Mr. Harmon would be available, and we can hold it and make some decision at the next meeting.

MS. LIEBERMAN: Should we have a motion on that?

MR. CRANE: You can just unilaterally hold it if you so choose.

ASSEMBLYMAN MANZO: I'd second the--

SENATOR KENNY: I don't disagree with that, but Green Acres is here. Can we at least hear from them to put this in context? And I agree that we should hold it. But Green Acres is here, and I think it would be -- I'd just like to hear from them so that we can have an informed background to moving forward. But I agree with the Senator.

MS. LIEBERMAN: Thank you, Mr. Harmon.

I think now we should hear from Green Acres.

Thank you.

MR. HARMON: Thank you very much. I appreciate it.

Thank you.

**J U D E T H P I C C I N I N I Y E A N Y, E S Q .:** I'm Judeth Yeany, from the Green Acres Program at the DEP.

The reason that we felt that this project was ready for decision by the Commission was because we considered it under our previous rules,

as Mr. Harman has alluded to. The situation was that we adopted new rules in January of 2006, and Middletown had contacted us, back in 2004, about this project. At the time, they were asking to expand this exception area within the park by roughly six-tenths of an acre, and that was mostly to accommodate additional parking at the time.

At that time, we evaluated it through our normal process, and we did send the town a letter saying that we thought we could support the expansion, conceptually. But as often happens, the application was dormant for a while, I think because other things were happening as far as approvals for the development, so we didn't hear from the town for quite a while. And when they came back, it was with a plan that depicted this additional roadway and started raising questions about the basin. And there was discussion within our program about whether the changes at that point were so substantial as to push this project under the new rules, both from the perspective that the area that they were asking to divert had gotten quite larger, but also because the application had been dormant for a while. At that point, we sat down with the town -- I believe it was in late September, early October -- to have them explain to us better what was going on, on the site. And it was as a result of that meeting that we decided that the scope of the diversion was the number that's in the summary, which I believe is 0.72 acre. And that was based on representations by the town that our own Land Use Permitting Program was going to require this basin to be built, regardless of whether the project ever went in, partly to accommodate other recreational development on the site.

And I believe there are people here representing the developer and the town who can address that specific issue, if you want more detail on it. But if you look at the map that we submitted with the summary, the basin is not part of the area that the town told us was now going to be leased to the developer. So we can find the scope of what we were asking for the expansion to be -- the access roads, and the parking, and the other things -- depicted on that map.

Under the previous rules, and actually by statute, the requirement was that an applicant have the public hearing 30 days before the State House Commission approves the application. So in this case, I believe he said the hearing was November 9, and that deadline was met. The significance of the 90 days is that if we had processed the application under our new rules, we do try to allow more time, in part because of

needing to get things before the Commission and needing more time to process that paperwork.

So our position is that the application did comply with the rules that we processed it under. But we have a difference of opinion with Mr. Harmon about whether the old rules or the new rules should have applied. Our perspective, after we met with the town about the application, was that there would be public notice. There was 30 days public notice, that people would get an opportunity to comment on this version of the application at that hearing.

And I believe, in fact, Mr. Harmon did attend the hearing and was able to comment then. But we do rely on the towns at that point to decide whether, based on the comment that they've received, whether they still want to support the application. So we got direction from Middletown at that point that they did want to proceed, despite having heard some of the same issues that were raised today, and they asked us to move forward with the application.

I'm just trying to think, as far as any major points. I will say this is not a regular occurrence, as far as Green Acres is concerned. It was a very unusual situation, to begin with, to have this exception area within the park. And that was all as the result of the litigation between Middletown and Atlantic Highlands -- that this project even came about in the first place. So I think what our perspective on this ended up being -- that this was a renegotiation of the original settlement between the towns, to accommodate changes that occurred after the property was purchased. A lot of this is being driven by DCA requirements and other regulatory requirements. There's no increase in the number of units, or anything like that. So, under the circumstances, we felt that getting a firm commitment from the town to build these ball fields in a specified period of time was adequate compensation for what they were asking us to do.

MS. LIEBERMAN: Assemblyman Manzo.

ASSEMBLYMAN MANZO: Yes.

I just have a problem with -- I don't know how many other dormant applications there are. But I think any agency that simply is saying, "Well, we have new regulations. But if something was dormant, we're going to follow these regulations." And if the new regulations didn't take that into account and it's left to the whim of somebody in the agency, or somebody elsewhere, that's a significant problem. That's going to cause this Commission probably more significant problems, if there's other

dormant applications out there and there's not a legal decision rendered on whether or not this should be so. So I am very uncomfortable, even after hearing the explanation, as to why they moved on this without having someone look into this matter and see if the new regulations should, in fact, be followed for anything that's dormant; and how, if they're allowed to be grandfathered, who decides that and what process is followed.

So I think, just on that, before this Commission moves forward, I think Senator Kavanaugh's advice is well-taken. We should table this and have a thorough movement on that.

ASSEMBLYWOMAN KARROW: I want to add to that. I'd completely agree with you, Assemblyman, having served in local government and doing a Green Acres diversion over a decade ago. I'm all for home rule. But I remember the hoops that Green Acres made us jump through to satisfy it, and it took a lot of sweat equity by the Township Committee to satisfy the public and Green Acres. And Green Acres wasn't in a rush. They dragged it out and, eventually, when it did get to the State House Commission, there was no dissent from the public because of the amount of time and effort that the Township Committee and Green Acres put into it. So I totally agree with the Senators and the Assemblyman that we should table this.

SENATOR KAVANAUGH: One other question.

What was that statement, Mr. Harmon, that you made -- "They received \$3 million." Could you just--

MR. HARMON: Middletown and Atlantic Highlands -- there was an extensive litigation. Middletown and Atlantic Highlands joined together and purchased the entire 25 acres from Conifer for \$3 million. Middletown then leased back -- I think it's about 4 acres -- for \$1 a year to Conifer. And Conifer still retains the rights to build 180 units on this site.

ASSEMBLYWOMAN KARROW: Just for clarification, Middletown did that as part of their COAH requirement?

MR. HARMON: Well, the-- Buying the property?

ASSEMBLYWOMAN KARROW: Yes.

MR. HARMON: Well, we bought the property as a settlement of a court. It was sort of a spot-- There was a long fight -- border war. I would say a high-density border war. And eventually, we joined together to buy the property from Conifer. And they were very nice.

ASSEMBLYWOMAN KARROW: Is this a COAH site?

MR. HARMON: Yes.

ASSEMBLYWOMAN KARROW: It is a COAH site.

MR. HARMON: Yes. It's a senior affordable housing site -- apartments.

UNIDENTIFIED PERSON FROM AUDIENCE:  
(indiscernible)

MS. LIEBERMAN: Given the vast array of questions that have been raised, I suggest it may be better, given the legislative members suggestions, that we hold the matter so it can be fully examined and we can have all questions answered in a thoughtful and timely manner -- fashion.

MR. HARMON: Thank you very much. Thanks.

MS. PICCININI YEANY: Thank you.

ASSEMBLYMAN MANZO: I'll second the Senator's motion.

UNIDENTIFIED PERSON FROM AUDIENCE:  
(indiscernible)

ASSEMBLYMAN MANZO: There's a motion on the table.

MS. LIEBERMAN: We're going to table the matter and be able -- so that we'll have adequate time to address all the relevant parties and have answers provided to all the pending questions.

UNIDENTIFIED PERSON FROM AUDIENCE:  
(indiscernible)

SENATOR KAVANAUGH: You're going to have an opportunity. Our counsel and the Chair will be contacting you. So you'll have-- Just leave your name, phone number. We'll be happy to talk to you, but not at this time. We have gotten the facts.

MR. CRANE: No. 39 is in Tinton Falls Borough, in Monmouth County. The requesting party is New Jersey DEP, on behalf of Monmouth County: approval of a diversion of approximately 0.092 acre of Shark River Park, for a widening and improvement of intersection road -- Route 33. The public hearing was held. As compensation, Monmouth County will dedicate, as parkland, 1.3 acres of replacement land.

ASSEMBLYWOMAN KARROW: Moved.

SENATOR KAVANAUGH: Second.

MR. CRANE: All in favor? (ayes respond)

No. 40 is in Old Bridge Township, in Middlesex. The requesting party is the Department of DEP, approval to allow the township of Old Bridge to enter into a 35-year lease with a redeveloper, Far Hills Capital Partners, for the development of an 18-hole public golf course on approximately 208 acres of municipal parkland.

Madam Chair, we have a few representatives today from Old Bridge with us, and they have assured me they have a couple of quick comments about this, and then I think they're going to ask for approval of the action. Is that correct?

**JEROME J. CONVERY, ESQ.:** That's correct.

MR. CRANE: Okay.

MR. CONVERY: Members of the Commission, my name is Jerome Convery. I'm the Township Attorney for Old Bridge.

I'd like to state very briefly that in our town this golf course has virtually unanimous support. It started with an Old Bridge Golf Committee that recommended unanimously to the Township. The area in question are the Rose and Lambertson Farms -- 208 acres -- which, through the Planning Board action and the Township Council action, has been designated a redevelopment area. Furthermore, we recently adopted a redevelopment plan which essentially approves the golf course as envisioned by Far Hills Capital, and their representative is here and would like to speak to you briefly.

The important point to make is that we have a redevelopment plan. But in order to go forward in our town, we need a lease with the redeveloper. We're also going to need a redevelopment agreement. We can go no further until we know the length of the lease that will be permitted. We know that 25 years is acceptable under the general rules; we know that an extended lease comes before you.

At a recent meeting of the Township Council, the Council, after listening to Far Hills Capital, recommended that we have a lease of 50 years. We understand that DEP has taken a different position. What I would like to say is that we need action now so we can go forward with the plan. We don't want to delay. We want a golf course in our town. Everybody is on board to do this. I don't think you'll find any outcry against a public/private partnership for a golf course in Old Bridge Township.

Mayor Jim Phillips is here. If there are questions for the mayor, he'd be happy to answer them.

Also, we have with us a representative, Peter Zurkow, who is the redeveloper. He's with Far Hills Capital. They're going to organize a group called the Old Bridge Golf Course Partners, LLC to go forward. He would like to address you very briefly.

**PETER ZURKOW:** Thank you.

My name is Peter Zurkow, and I'm one of the designated redevelopers of this property. We understand that DEP has recommended that a 35-year lease be permitted for the property. We originally requested 50 years, based upon our reviews of the limited universe of lenders who would help finance a project of this order. So we understand the town would like to push ahead with the recommendation of 35. But we would hope, and the only reason I'm sitting before you, is hope that you will consider this application without prejudice to our returning to you with a request of a longer term of lease, because we are not highly optimistic that we will be able to secure financing on a 35-year-lease basis.

ASSEMBLYWOMAN KARROW: Question, Chair?

My understanding-- I've been elected for a long time in local and county government, and I'm just confused. I'm pretty sure that State statute precludes local governments to enter into leases longer than 20 years, and only five of them -- a 20-year lease with four renewals. So I don't know if State statute allows you to go into a lease longer than 20 years.

MR. ZURKOW: I'd defer that to Mr. Convery. We've been taking our legal counsel on the term of the lease from him.

MR. CONVERY: Yes.

No. We believe that we have the right, under State law, to go beyond 20 years. We have not executed the lease yet. We were told that in order to -- because this is Green Acres property, we would have to come before DEP and the State House Commission to get approval for anything beyond 25 years. And that's why we're here. So this is our next step.

ASSEMBLYWOMAN KARROW: I understand. I just -- I think we need to check, because I'm pretty darn sure it's 20 years with four renewals, that that's what the State statutes do allow for local and county governments.

MR. CONVERY: Well, our purpose here today, though, is -- if you're right -- and we have to check that law-- But I think the town would like you to go forward with your approval of the 35-year lease today, under your rules, so that we can go forward with the project.

SENATOR SMITH: Let me ask a follow-up question to Assemblywoman Karrow's question.

Just for the record, it's Senator Smith. Senator Kenny had to attend another meeting.

First, the DEP is recommending a 35-year lease. I can't imagine that they're recommending anything that's violative of State

statute. But let's ask our counsel, Mr. Shaughnessy, what are the rules here?

MR. SHAUGHNESSY (Counsel): Senator, I'm unsure. I've not researched this, and I could not give you a legal opinion at this moment.

SENATOR SMITH: Okay.

Let me ask -- is DEP here? Maybe we could ask them.

MS. PICCININI YEANY: We have the general provision in our rule about leases of 25 years or more needing the Commission's approval, but that could cover a variety of circumstances, including private parties asking us for those leases. So we relied on the representation from the municipal that they had the authority to enter into this lease. We didn't research the issue either.

ASSEMBLYWOMAN KARROW: Okay. I--

MS. PICCININI YEANY: For us, the issue was whether it was good public policy to lease the parkland for 50 years.

ASSEMBLYWOMAN KARROW: And you don't have a problem with that, on the public policy place?

MS. PICCININI YEANY: The 35?

ASSEMBLYWOMAN KARROW: Right.

MS. PICCININI YEANY: Correct.

ASSEMBLYWOMAN KARROW: So I don't have a problem moving this on the condition that counsel for the State House Commission check the State's statutes regarding how long a municipality-- It doesn't matter with government, State government, because we always do stuff that we don't allow anybody else to do. So as long as we check the State statutes -- that the municipality is within the parameters of State statute for a local government -- I don't have a problem moving this.

MS. PICCININI YEANY: That's fine with us.

SENATOR SMITH: Well, I have a little problem. Let me go into that.

Why is it, Mr. Convery, that the 50-year lease was the preferable alternative?

MR. CONVERY: After we had the developer go and look into financing -- and he can address that -- they found from a number of banks in the area, as well as companies that finance golf courses, that they felt that they needed an absolute minimum of 45 years, and built in a little bit of a cushion for 50 years.

Mr. Zurkow can address that.

SENATOR SMITH: Okay. Don't-- (indiscernible) be at the table. Let's give him this reserved (indiscernible).

MR. ZURKOW: It's a fairly limited universe of parties that finance golf course construction. This is not an economically feasible project in the absence of doing a leveraged transaction and borrowing money to complete the project. My partners and I have spent a fair amount of time talking to the universe of national lenders, as well as regional lenders, that might be willing to support this project.

Because the town is not offering a fee interest in the property as any portion of the collateral, the only collateral is the lease. No lender will participate in financing a lease-based project in the absence of having a term of the lease which is a multiple of the amortization period. It's not an economically feasible project with a 10- or 15-year amortization, so you're looking at 20- to 25-year amortizations. Every lender has insisted on at least -- the minimum was 40 years, and a number of them insisted on in excess of 50 years. So we can go back with a 35-year lease, and we can approach those lenders and some possible unconventional lending sources. But as I said before, we're not optimistic that we're going to be successful in securing the necessary financing for the project, but we're willing to give it a shot because we think it's a valuable project.

SENATOR SMITH: Well, let me go back to the DEP.

From a public policy perspective, what's the difference between a 35-year lease and 50-year lease?

MS. PICCININI YEANY: Well, our understanding was that the amortization period for the loan was 30 years. And we were being told the lenders were the ones that were driving -- wanting 1.5 times the amortization as the lease term.

SENATOR SMITH: So--

MS. PICCININI YEANY: We didn't think there should be the same concern in the type of situation where you're leasing public parkland that the underlying property is going to go away and be sold to somebody else. I mean, that property is locked up. It's there. It's not going anywhere. And we were just never completely convinced that this was the appropriate set of circumstances. We felt that we're giving them the amortization, plus five years to cover whatever contingencies.

SENATOR SMITH: All right.

MS. PICCININI YEANY: And we consulted with the Department of Treasury and other people that we deal with--

SENATOR SMITH: Right.

MS. PICCININI YEANY: --about such thing. Apparently, this is a fairly common argument. But the last project we did 50 years for was a multi-million dollar Schools Construction project in Union City, and not something of this magnitude.

SENATOR SMITH: But did I understand your comment to be that the driver of the 35-year term was the information that you received concerning financing?

MS. PICCININI YEANY: Correct.

SENATOR SMITH: Okay. We now have-- Where did you get that information?

MS. PICCININI YEANY: Our contact is with the municipality.

SENATOR SMITH: Mr. Convery, the suggestion is, is that the municipality suggested the 35 years. Is that correct?

MS. PICCININI YEANY: No, I didn't say that. The information about the financing, about what the amortization of the loan was -- based on information the municipality gave us. We gave them several opportunities to try to give us other financial information to justify why 50 years was absolutely required, but we were not completely convinced on that point. And we did consult with our Commissioner's office before we made that decision.

MR. CONVERY: The information was communicated, however, that talked in terms of the 30-year amortization schedule, and the lender wanted 1.5 times that. So a minimum of 45. That was communicated.

SENATOR SMITH: Right.

MR. CONVERY: I believe, in the report from DEP, they just took a different position than the municipality. The municipality, the township council has endorsed a 50-year lease. We've been provided with information from the developer which indicates it would be the minimum 45; and building in a five-year cushion, we were seeking a 50-year lease. That is our position. However, we don't want to stall the project. It's our understanding today that DEP was going to recommend 35 years. The developer is cooperating -- in a sense, if he can get the financing with 35 years, we'll go forward. We just want to reserve our right to come back--

SENATOR SMITH: Right.

MR. CONVERY: --rather than see the project fail.

SENATOR SMITH: I understand that. I would like to be a little bit more aggressive than Old Bridge, currently. It seems to me that when you have a project that is supported not only by a municipal government, but by the people in the area; DEP, on a policy level, doesn't have a problem with the concept of a golf course at this location -- the only argument is, what's the length of the term of the lease? And the truth of the matter is, you can't be a little bit pregnant. You're either pregnant or you're not. And what's the difference between 35 years and 50 years if it's a good use for the land?

So I think you're -- not to beat up on attorneys, because I love attorneys (laughter) -- I think the problem may be that you're -- by saying "We'll settle for less," you're setting yourself up for a six-month to a one-year delay. It's not easy to get before this Commission. You're going to have to go back to your lenders. You can get turned down, or you might try several lenders. And if you deal with the banks I deal with, they string you along forever -- more information, more information, and then they turn you down.

I don't know why we can't, as a body, say 50 years is appropriate if it's statutorily permitted.

ASSEMBLYWOMAN KARROW: And I'm fine with that, Senator.

I'll second that.

SENATOR SMITH: All right.

I'd like to move that we change the proposal to a 50-year lease, subject to it being statutorily acceptable. Because it sounds to me like it's a terrific project.

ASSEMBLYWOMAN KARROW: Yes. And I'm fine with that.

I'll second it.

MS. LIEBERMAN: Excuse me a second. (pause)

And on that motion?

MS. PICCININI YEANY: May I just add something?

I can't hit the button. (referring to PA microphone)

MS. LIEBERMAN: So the motion is--

MS. PICCININI YEANY: Okay. I just want to point something out, procedurally. If the Commission were to approve the

different term, it does then have to go back to our Commissioner to reevaluate her approval, because this is a dual approval by our Commissioner and the State House Commission. So it would then mean that the municipality has to go back to us again. And there was an issue with the notices for the public hearing, which I think we discussed in the summary that we provided to you. We would then have to evaluate whether they're going to have to readvertise. Because one of the notices told the public that the length of the lease was going to be 35 years.

MR. CONVERY: If I may address that very briefly.

There was a notice that was prepared in error that said 35. It was advertised immediately upon the recreation director realizing it said 35 years -- it was readvertised at 50. The people within, I think, 200 feet received a 50-year notice. And finally, the entire hearing that was held in town was with the understanding that it was in regard to a 50-year lease.

MS. PICCININI YEANY: Except it was the legal notice or one of the required newspaper notices was in error, as far as I know. So what I said was, we were going to have to then reconsider whether we have to have them readvertise that hearing. We didn't make a final call on that, because we were recommending 35 years.

MS. LIEBERMAN: When was the hearing on the 50 year notice?

MR. CONVERY: There was only one hearing. It was on the 50-year notice. It was held on September 18, 2006. At the conclusion of that hearing, Resolution No. 389 of the Township Council recommended that there be a-- It supports the application for the extension of the Old Bridge Public Golf Course lease with the project redeveloper, Far Hills Capital, LLC, from 25 years to 50 years, as submitted to the State House Commission. So the official action was in regard to 50 years. And there was a previous notice in the newspaper for 50 years, and I will acknowledge that the initial notice was in error, but it was superseded.

Thank you.

MS. LIEBERMAN: Thank you. (pause)

MR. CRANE: Do we have a--

ASSEMBLYWOMAN KARROW: There's a motion and a second.

MR. CRANE: We have a motion and a second. Okay.

The motion is to approve, with a 50-year lease term in the approval.

All in favor? (ayes respond)

Opposed? (no response)

None.

Approved.

In Hillsborough Township, Somerset County--

MR. CONVERY: Thank you for your time and courtesy.

MR. CRANE: Hillsborough Township, in Somerset County:

This is to approve -- DEP approve a diversion of approximately 0.177 acres to upgrade an interceptor sewer.

MS. LIEBERMAN: Moved.

ASSEMBLYWOMAN KARROW: Second.

MR. CRANE: All in favor? (ayes respond)

Opposed? (no response)

Madam Chair, it is time to have a motion to convene the State House Commission as the Board of Trustees for the Judicial Retirement System.

ASSEMBLYWOMAN KARROW: Moved.

MS. LIEBERMAN: Second.

MR. CRANE: All in favor? (ayes respond)

You're now sitting as the Board of Trustees for the Judicial Retirement System. There are four actions before you today.

ASSEMBLYWOMAN KARROW: I move the minutes.

I have a 10:00 meeting, I'm sorry.

MR. CRANE: Okay.

All in favor? (ayes respond)

All right. No. 2 is confirmation of death claims, retirements, and survivor benefits.

MS. LIEBERMAN: Moved.

ASSEMBLYWOMAN KARROW: Second.

MR. CRANE: All in favor? (ayes respond)

ASSEMBLYWOMAN KARROW: I move the financial statements of June 30.

SENATOR SMITH: Second.

MR. CRANE: All in favor? (ayes respond)

ASSEMBLYWOMAN KARROW: I move to table the discussion, under No. 4.

MS. LIEBERMAN: Second.

MR. CRANE: Table it?

ASSEMBLYWOMAN KARROW: Table it.  
MR. CRANE: Okay.  
ASSEMBLYWOMAN KARROW: I was told there was no further news, so--  
MR. CRANE: That's correct.  
SENATOR KARCHER: So table it.  
SENATOR SMITH: Second.  
MR. CRANE: No. 4 is a receipt of a report.  
ASSEMBLYWOMAN KARROW: Right.  
MR. CRANE: Yes. You're talking about No. 5.  
ASSEMBLYWOMAN KARROW: Yes. I'm sorry.  
No. 5.  
MR. CRANE: No. 4 -- we need-- Do you want to move adoption of the report?  
SENATOR SMITH: Move that.  
ASSEMBLYWOMAN KARROW: Yes. Second.  
MR. CRANE: I have a second.  
All in favor? (ayes respond)  
And No. 5?  
SENATOR SMITH: Motion to table.  
MR. SHAUGHNESSY: No change.  
ASSEMBLYWOMAN KARROW: Motion to table.  
MR. CRANE: Would you motion to adjourn as the Board of Trustees of the Judicial Retirement System?  
SENATOR SMITH: Unanimously. (laughter)  
MR. CRANE: Unanimous.  
Motion to adjourn the State House Commission?  
SENATOR SMITH: Also unanimous.  
ASSEMBLYWOMAN KARROW: Merry Christmas.  
MR. CRANE: Happy holidays.

**(MEETING CONCLUDED)**