
Commission Meeting

of

STATE HOUSE COMMISSION

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

DATE: December 13, 2004
9:00 a.m.

MEMBERS OF COMMISSION PRESENT:

Paul T. Fader, Chair
(Representing Acting Governor Richard J. Codey)
Senator Bernard F. Kenny Jr.
Senator Bob Smith
Senator Walter J. Kavanaugh
Assemblyman John S. Wisniewski
Robert L. Smartt
Gary Brune



ALSO PRESENT:

Edward R. McGlynn, Secretary
Robert J. Shaughnessy, 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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MR. PAUL T. FADER (Chair): Good morning.

I'm going to call the meeting for December 13, 2004, the State House Commission, to order. First, for purposes of the record, the meeting had been noticed pursuant to the Open Public Meeting Act.

I'll ask for a roll call.

MR. McGLYNN: Associate Director Brune?

MR. BRUNE: Here.

MR. McGLYNN: Deputy Treasurer Smartt?

SENATOR KAVANAUGH: He's here.

MR. McGLYNN: Thank you.

Senator Kavanaugh?

SENATOR KAVANAUGH: Here.

MR. McGLYNN: Senator Smith?

SENATOR SMITH: Here.

MR. McGLYNN: Chairman Fader?

MR. FADER: Here.

MR. McGLYNN: Okay. Would you like to do the matters by voice vote, Mr. Chairman?

MR. FADER: Yes. We'll do the matters by voice vote.

But first, before we get into-- Is there anyone here in opposition to any matter that's on the agenda?

Yes, could you tell us which matter you're here on?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Matter No. 3.

MR. FADER: Okay. If that's the case, we'll go through the others in order and save No. 3 for last, to get people through.

Thank you, Senator.

We'll go through the others first, and we'll save No. 3 for last, so other people don't have to wait for the opposition to that.

MR. McGLYNN: I'm waiting for Deputy Treasurer Smartt.

MR. FADER: Doug, grab Bob.

MR. McGLYNN: The first matter, Mr. Chairman, is to approve the minutes of the September 23, 2004, State House Commission meeting.

SENATOR KAVANAUGH: So moved.

SENATOR SMITH: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed?

MR. FADER: I recuse myself for that.

MR. McGLYNN: You recuse.

MR. FADER: I was not present for the meeting.

MR. McGLYNN: Item No. 2 is RPR 05-01, Block 166, Lot 1, in Pitman Borough, Gloucester County. The Department of Treasury, on behalf of the Department of Military and Veterans Affairs, recommends executing a lease-purchase for the improvements located at the Pitman Armory to Pitman Borough, to cover the cost of the improvements paid for by the State. The lease-purchase will be for a term of three years at an annual rental of \$45,000. Action was previously approved by the State House Commission at its meeting of June 21, 2004, as a lease. This action is to change the terms from a lease to lease-purchase.

We need a motion, please?

SENATOR KAVANAUGH: Mr. Chairman, it was understood that it was a continuing lease agreement with Pitman, but now it's a 135,000 three-year payment, and then they receive the property. Is that correct?

MR. McGLYNN: Is someone here from Treasury who can answer that question?

GENE HAYMAN: Yes, Senator, that's correct.

Actually there's a reverter clause where the property reverts back to the municipality. DMAVA wanted to get some money for the buildings, for the improvements, so they entered into the lease agreement. The attorney for the municipality wanted some assurance that the building was going to revert, so that he wants to change it to a lease-purchase from a straight lease, with the same terms and conditions.

SENATOR KAVANAUGH: For 135,000?

MR. HAYMAN: Right. Yes.

SENATOR KAVANAUGH: Thank you.

MR. McGLYNN: I'm sorry. That's Mr. Gene Hayman, from Treasury -- H-E-Y-M-A-N (*sic*).

All right. Mr. Chairman, we are now on No. 3. Would you like to hold that until the end?

MR. FADER: Yes. We're going to hold No. 3 until the end. Move to No. 4, please.

MR. McGLYNN: Pardon?

MR. SHAUGHNESSY: Did we have a vote on No. 2?

MR. McGLYNN: I'm sorry. You're correct. We did not have a vote on No. 2. May I have a motion?

SENATOR SMITH: Move it.

SENATOR KAVANAUGH: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Items No. 4 through 17 are all residential leases, as is Item No. 20, from the Department of Treasury. I don't know that I'll read all, whatever, 13, but we'll do them in blocks, if that's okay. Okay.

Item No. 4 is RPR 93-35, Block 42, Lot 14, in Washington Township, Burlington County. The Department of Treasury requests approval to lease a Department of Environmental Protection residential property, located at 101 Marilyn Avenue, to Patricia Caruso. The lease will be for one year with four, one-year renewal options at a rate of \$731 per month, with annual increases based on the Consumer Price Index.

Item No. 5 is RPR 93-43, Block 1902, Lot 3, in Hampton Township, Sussex County. The Treasury requests approval to lease a modest one-bedroom Department of Environmental Protection residential property, located at Swartswood State Park, to Jean Michael. Lease term will be for one year with four, one-year renewal options at a rate of \$228 per month, which is why they indicated it was a modest bungalow, with annual increases based on the Consumer Price Index.

Item No. 6 is RPR 93-51, Block 370, Lot 5, in Byram Township, Sussex County. The Treasury requests approval to lease a Department of Environmental Protection residential property, located at 42 Jefferson Lake Road, to Ann Sobel. The lease term will be for one year with four, one-year

renewal options at a rate of \$750 per month, with annual increases based on the Consumer Price Index.

Item No. 7 is RPR 93-55, Block 26049, Lot 17, Old Bridge Township, in Middlesex County. The Treasury requests approval to lease a Department of Environmental Protection residential property, located at 27 River Road, to Robert and Nancy McFadden. The lease term will be for one year with four, one-year renewal options at the rate of \$631 per month.

Item No. 8 is RPR 93-64, Block 902, Lot 84, in Allamuchy Township, Warren County. The Treasury requests approval to lease a Department of Environmental residential property, located at 2585 Colony Road, to Jeffrey and Dolly Snyder. The lease term will be for one year with four, one-year renewal options at a rate of \$685 per month, with annual increases based on the Consumer Price Index.

Item No. 9 is RPR 93-68, Block 100.01, Lot 104, in Allamuchy Township, Warren County. The Treasury requests approval to lease a DEP residential property, located at 2585 Colony Road, to Michael and Carol DiJohn. Lease term will be for one year with four, one-year renewal options at a rate of \$717 per month, with annual increases based upon the CPI.

Item No. 10 is RPR 93-73, Block 1001.01 (*sic*), Lot 114, in Allamuchy Township, Warren County. The Treasury requests approval to lease a DEP residential property, located at 1159 Waterloo Road, to Albert and Pauline Bodner. The lease term will be for one year with four, one-year renewal options at a rate of 753 per month, with annual increases based on the Consumer Price Index.

MR. FADER: Okay, that was through No. 10?

MR. McGLYNN: Correct.

MR. FADER: Let the record reflect that Assemblyman Wisniewski is here, please.

MR. McGLYNN: Thank you. He's marked as present.

MR. FADER: Okay.

MR. McGLYNN: Item No. 11 is RPR 93-95, Block 57, Lot 55, Franklin Township, Somerset County. The Treasury requests approval to lease a Department of Environmental Protection residential property located at 90 Cortelyous Lane to High Road School. The lease term will be from one year with four, one-year renewal options at a rate of \$889 per month, with annual increases based on the Consumer Price Index.

Item No. 12--

SENATOR KAVANAUGH: Excuse me?

MR. McGLYNN: Yes.

SENATOR KAVANAUGH: What is the High Road School? A nonprofit or--

MR. McGLYNN: Mr. Hayman is coming back up.

MR. HAYMAN: It's a private school for disabled.

SENATOR KAVANAUGH: Nonprofit?

MR. HAYMAN: Yes. It's certified by the Department of Education.

SENATOR KAVANAUGH: But is it nonprofit?

MR. HAYMAN: That I'm not sure of, Senator.

SENATOR KAVANAUGH: I would think it was a nonprofit. Since we have another unit that was rented at \$228, and this one is almost

\$900, if any time we can give assistance, to pass -- it has been with the State House Commission, we've lowered those rates.

MR. HAYMAN: We do do that normally, Senator. I'll go back and check to make sure it's--

SENATOR KAVANAUGH: But if this is for profit, we should raise it.

MR. HAYMAN: You're right.

SENATOR KAVANAUGH: Okay. Thank you.

Note Senator Kenny.

MR. McGLYNN: Senator Kenny, you're noted that you're here and present. We appreciate it.

SENATOR KENNY: Good morning.

MR. FADER: Good morning.

MR. McGLYNN: I think I'm on Item No. 12, correct?

MR. FADER: Yes.

MR. McGLYNN: Okay, thank you.

RPR 93-97, Block 74.1, Lot 10, in Franklin Township, Somerset County. The Treasury requests approval to lease a Department of Environmental Protection residential property, located at 159 South Middlebush Road, to Middlebush Farms. Terms will be for one year with four, one-year renewal options at a rate of 828 per month, with annual increases based on the Consumer Price Index.

No. 13, RPR 93-98, Block 74, Lot 3, in Franklin Township, Somerset County. The Treasury requests approval to lease a Department of Environmental Protection residential property, located at 397 Black (*sic*) Mills

Road, to John Van Cleef. The term will be for one year with four, one-year renewal options at a rate of 805 per month, with annual increases based on the Consumer Price Index.

Item No. 14 is RPR 93-100, Block 57, Lot 12, in Franklin Township, Somerset County. The Treasury requests approval to lease a DEP residential property, located at 23 April Lane, to Steven and Anna Brenner. The lease term will be for one year with four, one-year renewal options at a rate of \$1,042 per month, with annual increases based on the Consumer Price Index.

Item No. 15 is RPR 93-107, Block 58, Lot 3, in Franklin Township, Somerset County. The Treasury requests approval to lease a Department of Environmental Protection residential property, located at 99 Blackwells Mills Road, to John Van Cleef. The lease term will be for one year with four, one-year renewal options at a rate of \$1,128 per month, with annual increases based on Consumer Price Index.

Item No. 16 is RPR 95-14, Block 370, Lot 3, in Byram Township, Sussex County. The Treasury requests approval to lease a Department of Environmental residential property, located at 44 Jefferson Lake Road, to Ruth Stewart. The lease term will be for one year with four, one-year renewal options at a rate of \$847 per month, with annual increases based on the Consumer Price Index.

Item No. 17 is RPR 99-12, Block 67, Lot 3, in Branchburg Township, Somerset County. The Treasury requests approval to lease a Department of Environmental Protection residential property, located at 529 Old York Road, to Janet Hodge Bailey. The lease term will be for one year with

four, one-year renewal options at a rate of \$713 per month, with annual increases based on the CPI.

And Item No. 20, out of order, but also a residential lease, is RPR 05-09, Block 902, Lot 58, in Allamuchy Township, Warren County. The Treasury requests approval to lease a Department of Environmental Protection residential property, located at 1215 Waterloo Road, to Jeffrey McNeel. The lease term will be for one year with four, annual renewal options at a rate of \$870 per month, with annual increases based on the Consumer Price Index.

Those are all the residential property leases.

MR. FADER: Those are Items 4 through--

MR. McGLYNN: Four through 17, plus No. 20.

MR. FADER: Okay.

Can we motion to approve?

SENATOR KAVANAUGH: So moved.

ASSEMBLYMAN WISNIEWSKI: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

No. 18 is RPR 05-07, Block 46, Lot 32, in Clinton Township, Hunterdon County. The Department of Treasury, on behalf of the Department of Corrections, requests approval to grant temporary easements to CRC Communities, Inc. The temporary easements will be granted for fair market value, to be determined. Within your documents, you'll see that the temporary easements are 15 feet by 950 feet and 15 feet by 1,500 feet.

SENATOR KAVANAUGH: So moved.

MR. FADER: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

No. 19 is RPR 05-08, Block 157, Lot 34, in Marlboro Township, Monmouth County. The Department of Treasury, on behalf of the Department of Corrections, requests approval to dispose of the former Marlboro Camp. The property consists of a 14,000 square-foot building and approximately 70-plus acres of vacant land that have been declared surplus to the Department's needs. The property will be sold at auction, with the minimum bid to be of a fair market value as determined by an appraisal.

ASSEMBLYMAN WISNIEWSKI: Moved it.

SENATOR KAVANAUGH: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Item No. 21 is RPR 05-10, Block 154.02, Lot 1, in Totowa Borough, Passaic County. The Department of Treasury, on behalf of the Department of Human Services, requests approval to lease the Bush House, located on the grounds of the North Jersey Development Center, to the Devereaux Foundation, New Jersey Treatment Network, a service provider with the Division of Developmental Disabilities. The term will be for five years with three, five-year renewal options at an annual rent of \$1 per year. The Devereaux Foundation, New Jersey Treatment Network, will be responsible for a prorated portion of the cost of water, sewer, electric, phone, fuel, garbage removal, and grounds keeping services.

Item No. 22 covers the same Foundation. We can do that in tandem, Mr. Chairman, if that's all right?

MR. FADER: Yes.

MR. McGLYNN: Item No. 22 is RPR 05-11, Block 156.02, Lot 1, in Totowa Borough, Passaic County. The Treasury, on behalf of the Department of Human Services, requests approval to lease Cottage No. 4, Wing "A," located on the grounds of the North Jersey Developmental Center to the Devereaux Foundation, New Jersey Treatment Network, a service provider with the Division of Developmental Disabilities. Again, the term will be for five years with three, five-year renewal options at an annual rent of \$1 per year.

SENATOR KAVANAUGH: So moved.

ASSEMBLYMAN WISNIEWSKI: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Item No. 23 is RPR 05-12, Block 26001, Lot 1, in Montgomery Township, Somerset County. The Department of Treasury requests approval to grant an easement to Verizon, Inc. The easement will consist of a 50 by 50 parcel of land, located on the grounds of the North Princeton Developmental Center; and it's for the installation of a Controlled Environmental Vault and fiber optic equipment. The easement will be granted for fair market value, to be determined.

MR. FADER: Motion?

ASSEMBLYMAN WISNIEWSKI: So moved.

SENATOR KAVANAUGH: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Item No. 24 is RPR 05-13, Block 103, Lot 6, in Berlin Township, Camden County. The Department of Treasury, on behalf of the Department of Law and Public Safety, requests approval to dispose of a 1.5 plus-or-minus acre parcel of vacant land for a road widening project. The property will be sold to the Department of Transportation for a road widening project for \$434,000, the appraised value. It is my understanding this property was a former State Police property.

SENATOR KAVANAUGH: Move it.

ASSEMBLYMAN WISNIEWSKI: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

No. 25 is RPR 05-14, Block 25001, Lot 27, Montgomery Township, Somerset County. The Treasury requests approval to dispose of a one plus-or-minus acre parcel of vacant land, located on the grounds of the former Lloyd McCorkle Training School, to Somerset County for a road widening project. The property will be sold to Somerset County for a road widening project, to be sold at fair market value.

MR. SHAUGHNESSY: Mr. McGlynn, I believe there's a clarification this morning. That's 0.64 acre.

MR. McGLYNN: I'm sorry. That's correct. It is not one acre. Thank you, Mr. Shaughnessy. It's 0.64 acre.

SENATOR KAVANAUGH: Move it as amended, or corrected.

ASSEMBLYMAN WISNIEWSKI: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Item No. 26 is RPR 05-15, Block 159, Lot 11, in Marlboro Township, Monmouth County. The Department of Treasury requests approval to dispose of 0.07 plus-or-minus parcel of vacant land, located on the grounds of the Marlboro Psychiatric Hospital, to Monmouth County for a road widening project. The property is to be sold to the county for fair market value, to be determined by an appraisal.

SENATOR KAVANAUGH: Move it.

ASSEMBLYMAN WISNIEWSKI: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

All right. Mr. Chairman. Items 27, 28, and 29 are all Department of Human Services' requests. The State House Commission sets the rates that the State pays for county people in need in nursing homes, and then vice versa for county people in State nursing homes. They are enumerated in the agenda that everyone has seen. I will read just a portion of this, rather than going through each and every item.

Item 27 is the county facilities Calendar Year 2005 payment rates, from the Department of Human Services. It is for County Psychiatric Hospitals' State Aid. The rates established by the State House Commission, which shall be predicated by compliance with the facility's Certificate of Need and its conditions, as approved by the Department of Health and Senior Services. Those facilities include the Bergen County Regional Medical Center, the Buttonwood Hospital for Burlington County, the Camden County Health Services Center, the Essex County Hospital Center, Hudson County Meadowview Hospital, and the Union County Runnells Specialized Hospital.

Item No. 28 concerns State facilities calendar year 2005 payment rates, again by the Department of Human Services. These rates are the fixed -- the rates to be charged to counties for various clients residing in State institutions and programs pursuant to the Commissioner of Human Services' recommendations. They include: State General Psychiatric Hospitals, the Arthur Brisbane Child Treatment Center, the Ann Klein Forensic Center, the Community Mental Health Center of the University of Medicine and Dentistry of New Jersey, the State developmental centers, and residential functional services. The rates are enumerated in the agenda and will be in the minutes, as well as No. 27.

Item No. 29 are the county facilities prior period rate adjustments, from the Department of Human Services. The Commission is requested to fix the rates to be charged to the State for various patients residing in county psychiatric hospitals. There's a revised calendar year 2004 rate, which was developed for Camden County Health Services Center, in order to reflect unanticipated increases in salary and fringe benefits; and a revised calendar year 2004 rate developed for Essex County Hospital Center, in order to reflect an unanticipated decrease in the number of patients receiving psychiatric services at this facility during the calendar year 2004. So these rates will be applicable to the Camden County Health Services Center and the Essex County Hospital Center.

So we can do Nos. 27, 28, and 29 together.

MR. FADER: Motion?

SENATOR KAVANAUGH: So moved.

ASSEMBLYMAN WISNIEWSKI: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Item No. 30 is a Department of Transportation request. The property is at the North Ninth Street Bridge over New Jersey Transit Rail Line, Parcel VX476B and VX485B, in the City of Newark, Essex County. The Bureau of Right of Way, Property Management Unit, requests approval to sell a rectangular-shaped parcel of vacant land containing 0.24 acre or 10,393 square feet. The property will be sold via direct sale to an adjacent property owner, or at a public auction, at a recommended minimum sale or bid price of \$134,500.

SENATOR KAVANAUGH: So moved.

ASSEMBLYMAN WISNIEWSKI: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Next concerns the Department of Environmental Protection requests. Item No. 31 is -- the park name is the South Branch Wildlife Management Area, Block 74, part of Lot 7, in Readington Township, Hunterdon County. The DEP, on behalf of the Division of Fish and Wildlife, requests approval to convey an historic homestead on less than one acre of land within the South Branch Wildlife Management Area to the Township of Readington in Hunterdon County. The purpose of this conveyance would be to further the preservation and restoration of this locally important historic resource. Compensation is \$1, plus in-kind services.

SENATOR KAVANAUGH: So moved.

ASSEMBLYMAN WISNIEWSKI: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Item No. 32, the park name is Jenny Jump State Forest, Block 2, part of Lot 11, in Liberty Township, Warren County.

And by the way, Mr. Chairman, Items 32 through 40 all concern the lease of cropland, the value of which is set by the State Farmland Advisory Committee. So I can do both in tandem, if you wish?

MR. FADER: Yes, please do.

MR. McGLYNN: Thank you.

I'm going to repeat myself, and I apologize.

Item No. 32, Jenny Jump State Forest, Block 2, part of Lot 11, in Liberty Township, Warren County. The DEP Green Acres Program requests approval to enter into a 12-year lease with John Irwin Jr. who--

MR. FADER: I believe there may be a change to that -- is that correct -- to the 12-year lease? Instead of five year with one five-year renewals or-- Could you just check that?

MR. McGLYNN: The farm lease will be for a five-year term with John Irwin, for lands located in Warren used as cropland, with an additional five-year period by giving landlord written notice of tenant's request to renew together with the conservation management plan.

Item No. 33, also, is Jenny Jump State Forest, Block 203, part of Lot 2; Block 501, part of Lot 2; Block 502, part of Lot 6; Block 602, part of Lot 30 and part of Lot 31, in Allamuchy Township, Warren County. The DEP Green Acres Program requests approval to enter into a five-year lease with Keith Drake for lands located in Allamuchy Township to be used as cropland.

Item No. 34, Jenny Jump State Forest, Block 501, part of Lot 2 and part of Lot 3; Block 502, part of Lot 5 and Lot 6; and Block 701, part of Lot 3, in Allamuchy Township, Warren County. The DEP Green Acres Program requests approval to enter into a five-year lease with Larry Freeborn on lands located in Allamuchy Township to be used as cropland.

MR. FADER: Would you just check that and see that the annual cash compensation is correct, as written in the record here? I believe it's--

MR. McGLYNN: Which one, on 34?

MR. FADER: On 34. It should be 2,467 and not 2,267.

MR. McGLYNN: It should be 2,467--

MR. FADER: 08.

MR. McGLYNN: --08. Okay.

MR. FADER: Okay, thank you.

MR. McGLYNN: Instead of 2,267.

Item No. 35, the Allamuchy Mountain State Park, Block 901, part of Lot 11 (*sic*), in Allamuchy Township, Warren County. The DEP Green Acres Program requests approval by entering into a five-year lease with Thomas Kucharski for lands located in Allamuchy Township to be used as cropland.

Item No. 36, Allamuchy Mountain State Park, Block 903, part of Lot 100; Block 34, part of Lot 20; Block 36, part of Lot 1, in Allamuchy Township, Warren County and Green Township, Sussex County. The DEP Green Acres requests approval to enter into a five-year lease with Larry Freeborn for lands located in Allamuchy Township and Green Township to be used as cropland and pastureland.

Item No.--

SENATOR KAVANAUGH: For 1,860?

MR. McGLYNN: Eighteen, sixty, ten, is the dollar amount. I'm sorry. I will read those as we go forward.

Item No. 37 is Spruce Run Recreation Area, Block 19, part of Lot 4; Block 8, part of Lot 20, Harmony and Franklin Townships, in Warren County. The DEP Green Acres Program requests approval to enter into a five-year lease with Donald Duckworth for land located in Harmony and Franklin Townships to be used as cropland. The annual cash payment will be \$789.07.

Item No. 38 is the Spruce Run Recreation Area, Block 26, part of Lot 25; Block 28, part of Lot 25, in Harmony Township, Warren County. The DEP Green Acres Program requests approval to enter into a five-year lease with John Slater for lands located in Harmony Township to be used as cropland. The value is \$3,034.90.

Item No. 39 is the Spruce Run Recreation Area, Block 33, part of Lot 56 and part of Lot 57; Block 2, part of Lot 3 and part of Lot 4, Harmony Township and Lopatcong Township, in Warren County. The DEP Green Acres Program requests approval to enter into a five-year lease with Raymond Raub III for lands located in Harmony and Lopatcong Townships to be used as cropland.

Item No.--

Did I say the value was \$1,233.54? I'm sorry.

MR. FADER: You did now.

MR. McGLYNN: I did not. Thank you.

Item No. 40 is Spruce Run Recreation Area, Block 9, part of Lot 57, in Harmony Township, Warren County. The DEP Green Acres Program requests approval to enter into a five-year lease with Roy Garrison for lands located in Harmony Township to be used as cropland. Compensation will include a cash payment of \$783.20.

That concludes the cropland actions for the State House Commission.

ASSEMBLYMAN WISNIEWSKI: Move the croplands.

SENATOR KAVANAUGH: Second.

MR. McGLYNN: Second the croplands, good.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Item No. 41 is the Delaware and Raritan Canal State Park, Block 19, Lot 1, and Block 7, Lot 11, in Franklin Township; Block 9001, Lot 14 and Block 23001, Lot 1, in Montgomery Township, Somerset County. The DEP Green Acres Program requests approval to divert approximately 0.26 acres (fee and easement) to the County of Somerset in connection with the replacement of Route 632 Bridge, which is called the Griggstown Causeway.

SENATOR KAVANAUGH: Moved.

ASSEMBLYMAN WISNIEWSKI: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Item No. 42 is the Delaware and Raritan Canal State Park, Block 19, Lot 2, in Franklin Township, Somerset County. The DEP Green Acres Program requests approval to enter into a 20-year lease with Franklin Township

for education, cultural, recreational, and interpretive programs, projects, and activities to encourage public usage of the historic Griggstown Mule Tenders Barracks.

ASSEMBLYMAN WISNIEWSKI: Moved.

SENATOR KAVANAUGH: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Item No. 43 is Raritan Mountain State Forest, Block 250, Lot 3, in Wanaque Township, Passaic County. The DEP Green Acres Program requests approval to enter into a five-year lease with Ramapo Mountain Amateur Radio Club for the construction and renovation of a block house, antenna tower, and antenna as a base for the Office of Emergency Management and Homeland Security amateur radio operations.

SENATOR KAVANAUGH: Move it.

ASSEMBLYMAN WISNIEWSKI: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Item No. 44 is the Spruce Run Recreation Area, Block 9, Lot 53, in Harmony Township, Warren County. The Department of Environmental Protection, Green Acres Program, requests approval to enter into a 20-year lease with Harmony Township for education, cultural, recreational, and interpretive programs, projects, and activities to encourage public usage of the historic Vannatta Farm.

ASSEMBLYMAN WISNIEWSKI: So moved.

SENATOR KAVANAUGH: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Item No. 45 is the Goffle Brook Park, Block 81, part of Lot 1, in Hawthorne Borough, Passaic County. The DEP, Green Acres Program, on behalf of the County of Passaic, requests approval to divert approximately 0.35 acre of Goffle Brook Park to allow Hawthorne Borough to construct a 15-inch, gravity-fed sewer relief main that parallels an existing sanitary sewer pipe.

ASSEMBLYMAN WISNIEWSKI: Moved.

SENATOR KAVANAUGH: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Item No. 46 is the Turkey Brook Greenway, Block 7600, part of Lot 4, in Mount Olive Township, Morris County. The Department of Environmental Protection, Green Acres Program, on behalf of the Township of Mount Olive, requests approval to allow the disposal of 0.123 acre of the Turkey Brook Greenway to the County of Morris for roadway purposes; and the transfer of an additional 0.345 acre access easement within the Turkey Brook Greenway to the Mount Olive Board of Education, in connection with the expansion and renovation of the existing high school.

ASSEMBLYMAN WISNIEWSKI: Moved.

MR. FADER: Can I have a second, please?

SENATOR KAVANAUGH: Second. There's a transfer here at 3.08--

MR. McGLYNN: 0.345 acre.

SENATOR KAVANAUGH: On the bottom, parkland dedicates 3.083. The Board of Ed is--

MR. McGLYNN: Yes. In return, the Board of Ed will grant to the Township a 0.703 acre ingress and egress easement to provide access and shared parking for the 3.083 acres.

SENATOR KAVANAUGH: Thank you, sir.

MR. McGLYNN: No problem.

Did we move it and second it?

ASSEMBLYMAN WISNIEWSKI: Moved.

SENATOR KAVANAUGH: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Item No. 47 is the Great Egg Harbor Bay Islands, Block 850, part of Lot 1, part of Lot 3, and part of Lot 6; Block 1750, part of Lot 1, part of Lot 2, and part of Lot 16, in Ocean City, Cape May County. The DEP, Green Acres Program, on behalf of Ocean City, requests approval to transfer to the New Jersey Department of Transportation approximately 9.6 acres of City-owned salt marsh islands located in the Great Egg Harbor Bay, in connection with the replacement of the New Jersey Route 52 Bridge between Somers Point and Ocean City.

SENATOR KAVANAUGH: Moved.

ASSEMBLYMAN WISNIEWSKI: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

Nos. 48 and 49 -- we can do that.

I've asked the Chairman to do No. 48 with the members of the board, just in case there's any potential conflict that I may have, even though as Secretary it's only a ministerial position, but be that as it may.

We're now going to sit as the trustees of the Division of Pension requests for the Judicial retirement system.

I would ask for approval of the minutes of the meeting held on September 23, 2004?

SENATOR KAVANAUGH: So moved.

ASSEMBLYMAN WISNIEWSKI: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

And I need a motion to confirm the retirements, as indicated in the agenda?

ASSEMBLYMAN WISNIEWSKI: So moved.

SENATOR KAVANAUGH: Second.

MR. McGLYNN: All in favor? (Aye)

Opposed? (no response)

And we need a motion to approve the financial statements as of September 30, 2004?

SENATOR KAVANAUGH: Moved.

ASSEMBLYMAN WISNIEWSKI: Second.

Thank you.

Thank you, Mr. Chairman.

I think you're now going to consider Item No. 3. Am I correct?

MR. FADER: We're going to do 48, and then we're going to do 3.

All right?

MR. McGLYNN: Okay.

MR. FADER: Do you want to make a statement with respect to No. 3?

MR. McGLYNN: I would appreciate that. As I understand it, No. 3 has been remanded back to the State House Commission, and there were a couple of issues that were raised on appeal -- one including whether or not the vote that was taken was proper; and the other was an issue concerning whether or not I, as Secretary to the Commission, had a conflict. It is my opinion, after reviewing all of the Appellate Division documents, that I did not have a conflict. I was -- as I said, the Secretary is a ministerial position. I do not decide what gets on the agenda. I do not know anyone from University Heights, nor do I know the principles of University Heights -- although that was alleged that I did in the appeal -- nor did I ever receive any compensation whatsoever concerning this matter. And everyone on this Commission, I think, knows that when I think and when I am aware that my firm has been involved with someone, I normally put that on the record. I didn't put that on the record at the time because I did not know that our firm had done any work for this entity.

MR. FADER: In the past.

MR. McGLYNN: In the past, correct.

MR. FADER: Okay.

MR. McGLYNN: So with that, I think it's probably best for me to excuse myself on this matter.

MR. FADER: Okay. We accept your recusal from this matter, with the understanding that you don't admit or agree that there was any conflict of interest. But just as a way to make sure that there's no appearance of a conflict, you'll be recused for No. 3 and, also, for No. 48.

Why don't we take No. 48 now, which is a Hilltop Conservation easement, Block 10, part of Lot 1. This is requested by the New Jersey Department of Environmental Protection Green Acres Program -- requests and convey to the Essex County Improvement Authority in Verona Township a total of 0.996 acre of property currently encumbered by the Green Acres-funded Hilltop property conservation easement, as purchased by the Department of Environmental Protection. The conveyance includes 26,520 square feet to be transferred in fee simple to Verona Township in connection with the retention of a water tank by Verona Township on the property. In addition, the Essex County Improvement Authority requests the conveyance of 13,730 square feet in fee simple for future road use, and 3,116 square feet of underground utility easements in connection with the anticipated redevelopment of the surrounding parcel by a private developer.

The terms include his compensation -- 3.91 acres of property to be added to the Hilltop easement area and the vacation of 5.37 acres of underground utility easements within the existing Hilltop easement area.

Can I have a motion to approve?

SENATOR KAVANAUGH: Moved.

ASSEMBLYMAN WISNIEWSKI: Second.

MR. FADER: All in favor? (Aye)

Okay. We're going to move now to No. 3, and I understand there is some people in opposition to that, as well. Okay.

Once again, as stated earlier, this is an application which has been remanded to us, based upon an appeal that was filed. This is a -- the park name is DeKorte Tennis Complex and Municipal Park, in the Borough of Franklin Lakes. The New Jersey Department of Environmental Protection, on behalf of the Borough of Franklin Lakes, requests approval to authorize the disposal of 0.169 acre of parkland to a private developer to provide access for a 100-unit apartment complex in partial satisfaction of the Borough's affordable housing obligations. University Heights is the owner of an adjacent 12.5 acre parcel and plans to construct approximately 100 rental housing units on the property under a settlement negotiated with the Borough of Franklin Lakes in the context of a builder's remedy suit.

The terms are, as of June 21, 2004 meeting, the State House Commission approved this diversion. Subsequently, the New Jersey Audubon Society, Franklin Lakes Open Space Preservation, L.L.C., filed a notice of appeal to the Superior Court, Appellate Division, challenging the validity of the Commission's prior approval. A motion for remand has been submitted to the Court requiring a re-vote by the Commission. And that's what we're here for.

Can I have the objectors come forward?

SENATOR KAVANAUGH: Mr. Chairman?

MR. FADER: Yes.

SENATOR KAVANAUGH: At this time, Assemblyman Biondi is not present today. But an alternate, Senator Smith is here. I wonder, will he be voting on the matter?

MR. SHAUGHNESSY: I believe that Senator Smith is the alternate to Senator Kenny. So I think that he is present, but not voting at this point.

SENATOR KAVANAUGH: I thought he was a general-- I thought he was available just as a substitute.

MR. SHAUGHNESSY: No, Senator. He's actually acting in Senator Kenny's stead when Senator Kenny is unable to attend.

MR. FADER: And I believe Senator Kenny is right here and present, as I'm looking directly at him.

SENATOR KAVANAUGH: Should have been kind enough to notify Senator Smith--

SENATOR KENNY: I like to come because I just enjoy watching this group in action.

MR. FADER: Senator Smith, you're welcome as well.

Please come forward.

Okay. Please state your name?

G R E G O R Y D. M E E S E, E S Q.: Good morning.

Greg Meese, attorney with Price, Meese, Shulman & D'Arminio, attorney for New Jersey Audubon Society, as well as Franklin Lakes Open Space Preservation. Franklin Lakes Open Space Preservation is a citizens group in Franklin Lakes devoted to saving the parkland in the Borough.

As noted earlier, the applicant in this application is the Borough of Franklin Lakes. The Borough of Franklin Lakes' Council has adopted a resolution requesting that this matter not be voted upon, because the issues with respect to the compensation and the terms of the diversion between the

developer and the Borough have not been agreed upon. And that resolution was adopted back last June.

I have a letter this morning from four members of the Council that is dated December 11, 2004. And the letter states the following:

“Attached find Borough of Franklin Lakes Resolution No. 204 adopted on June 18, 2004, and a complete minutes of the June 18, 2004, special meeting of Mayor and Council. In that resolution, we respectfully requested that the State House Commission delay consideration of the proposal to divert Green Acres parkland for the University Heights housing development.

“Since all the issues raised in Resolution 204 are still valid, we again respectfully request that the State House Commission delay the Green Acres diversion. Such a large project of 100 apartment units on only six buildable acres will have major environmental impact of unintended consequences in Franklin Lakes. Respectfully, Russ Schroeder, Council President; Linda Allen, Councilwoman; Pearl Spector, Councilwoman; Alfred Blomquist, Councilman.”

And this letter is directed to the State House Commission.

The issues noted in the resolution, with respect to this application, are not insignificant issues, but frankly are issues that go to the heart of the application. First, the Borough has not consented to the terms of the granting of the diversion permit as set forth in Commissioner Campbell’s letter dated June 10, 2004. Again, I’m reading right from the Council’s resolution. The terms for the granting of the diversion permit, as set forth in the Commissioner’s letter of June 10, 2004, are contrary to and inconsistent with the proposal which the Borough has received from University Heights and which was the subject of a resolution considered by the Borough Council. But after careful consideration,

the Borough Council, on June 7, 2004, unanimously agreed to remove the proposal from its agenda because of the need for further clarification of the facts and analysis of the legal issues involved in this complex matter.

On numerous prior occasions, including but not limited to, in an April 18, 2001 letter from Thomas Wells, Administrator, Green Acres Program, to Honorable Jonathan N. Harris, Judge of Superior Court, which is part of the record in the University Heights litigation; and in a March 12, 2002 letter from Judeth Piccinini, Chief, Bureau of Legal Services and Stewardship, Green Acres Program to Borough Administrator Robert S. Hoffman, the DEP has stated that Old Mill Road is a park road for which a diversion permit is requested. The park road is not currently contained in the diversion permit application.

There are several additional open issues with respect to the University Heights proposal which require further study, including but not limited to the following: One, whether DEP has adopted regulations as referred to in Commissioner Campbell's letter dated February 11, 2004, which set forth the standards for the granting of a Green Acres diversion under the circumstances of the matter presented. Two, whether the amount of the consideration offered by University Heights is based upon a true, accurate and fair real estate appraisal which reflects an accurate value of the land that is proposed to be diverted, including the park road, or is merely an arbitrary sum offered by University Heights. And three, the number of on-site low and moderate housing units which are actually being proposed, because there is an inconsistency between the Commissioner's letter and the most recent proposal from University Heights.

Therefore, as a lack of, the clear lack of, agreement on the proposal put forth by University Heights, the lack of clarity between its proposal and those set forth in Commissioner Campbell's letter of June 10, 2004, as modified June 17, 2004, and the clear need for further study of this issue and clarification of the legal principles upon which the Commissioner has recommended action on the proposal, it is hereby resolved by the Borough as follows: One, the Borough requests the Commissioner to withdraw the matter from consideration by the State House Commission. Two, unless the Commissioner voluntarily withdraws the matter from consideration by the State House Commission at its meeting of June 21, 2004, the Borough requests that the State House Commission delay consideration of the proposal. And three, the Borough orders and directs a copy of this resolution be presented to the State House Commission.

SENATOR KAVANAUGH: What was the date of that resolution?

MR. MEESE: The resolution was dated June 18, 2004, and it was resubmitted in a letter dated December 11, 2004, by a majority of the Franklin Lakes Council. Since the Borough of Franklin Lakes is the applicant and the applicant is requesting the withdrawal of the application or the delay in considering it, we're not sure why the matter is being rushed through at this juncture. I would like to submit a copy of the Borough letter and resolution. There's also minutes of the meeting where it was discussed, for the Commissioner's record.

ASSEMBLYMAN WISNIEWSKI: Do you represent the Borough?

MR. MEESE: No, I don't. I represent New Jersey Audubon Society and the Franklin Lakes Open Space Preservation.

ASSEMBLYMAN WISNIEWSKI: Is there anyone here representing the Borough?

MR. MEESE: It was my understanding the Borough had no notice of this meeting. From my understanding, the matter was put on the agenda as the result of a court order that came out late Thursday evening. I only received word in my office late Thursday, myself. And I understand is, the Borough never received notice that this matter was being considered again today, which is why there was not a formal resolution, but rather a letter submitted by a majority of the Council members.

MR. FADER: But not by the Mayor or the other members of the Council?

MR. MEESE: There's four--

MR. FADER: No. On the letter you just spoke of--

MR. MEESE: Correct. Three's four--

MR. FADER: --from the Councilman--

MR. MEESE: There's--

MR. FADER: May I finish? Is the Mayor on that letter?

MR. MEESE: No. There's four out of the six Council members.

MR. FADER: Okay. Thank you.

Let me ask the Deputy Attorney General. Do we accept, I guess, what's -- arguably is hearsay testimony from nonrepresentative of the municipality, on behalf of the municipality, with documents? Is that usually the form?

MR. SHAUGHNESSY: Well, typically, if something is read into the record and put into the record, we would consider it and give it the weight that's accorded it.

MR. FADER: Okay. Very good. We'll accept you then.

MR. MEESE: It is on Council letterhead with original signatures.

SENATOR KAVANAUGH: Mr. Chairman?

MR. FADER: Yes.

SENATOR KAVANAUGH: I think I'm the only one that has been around all the time that it's been going on. We go back to the time of Hamburg Mountain, which is probably one of the biggest mistakes that this State House Commission made when we, kind of, sold property, the environment sale, and turned around and the person who bought it had been a convicted criminal. And it was just a task that I was always sorry that it happened, and hoping in review we could have changed it.

But in this case, this goes back to times when Governor Florio was involved and turned down this project. It was a different type of project that time, but it was this area. Governor Whitman turned it down. Then it, kind of, laid fallow for a period of time. All of a sudden, it has resurfaced now with building 100 housing units or apartment houses. But it still doesn't change what is being done.

Once again, just because this is a very small strip of parkland, it's still parkland, whether it's a square of land or a hundred acres of land. We're setting a precedent here of taking away parkland, which we really shouldn't. And it's now before us this morning, still opposed by the Council. As I understand it, the last letter came from the Mayor, who was supporting it. It's

a strong-Council weak-Mayor-type program. The thing that we have, especially myself as an elected official -- we have to be concerned about land. That's something you could never buy.

I was a developer. And thinking back in times when we purchased property years ago, I remember one case in particular. We bought 100 acres of land, and it's probably gone up now in price since 1957, 1960, in that area. It's probably gone up 10 times in value. Here what we're doing is a piece of landlocked property that we're giving in a way in that-- There was another access that they didn't want to take, up along the railroad tracks.

(door slams) That's the ghost of John Morrow (phonetic spelling).

So that, myself, I'm going to vote "no" on it, whether you come back and meet and bring anybody in. But I object that we're going to sell this property, no matter what the price is. It started out, the \$28,000 was an arbitrary position that they have established. Whatever you're going to do with this property, you think it over. That developer is sitting there hoping he can get it as cheap as possible. You could probably raise that anti probably to a million dollars, and he's still going to take it. But, we've decided to sell it for \$100,000. It was an arbitrary position where it was decided. So I think that what we're doing is, it's, kind of, the rape of the children and the mothers and fathers in the State of New Jersey, giving away parkland that you never can get back.

Thank you.

MR. FADER: Thank you, Senator.

We were going to accept the-- I think where we left off was we were going to accept the letters. So you can, please, submit those.

Assemblyman Wisniewski, do you have a question?

ASSEMBLYMAN WISNIEWSKI: I was just curious if the four members of the governing body could get together and sign a letter, obviously, other members of the official community of the municipality are aware of this. It's not a big stretch for the Mayor to send a municipal attorney or another official to state what the official position of the municipality is. We have an application by the municipality, and we have a resolution by the municipality. They conflict with each other. I'm not sure how we should be guided by that.

MR. MEESE: Well, I can say that no one from the town knew anything about it until they were notified by our organization on Friday that the matter was remanded Thursday night.

ASSEMBLYMAN WISNIEWSKI: Right. So there are people in the municipality, as of Friday, that knew about this. It's not a big stretch to have the municipality have their attorney or somebody come down here and say, "Here's our position."

MR. MEESE: I can't speak for the municipality other than the letter that they've sent to the Commission asking that the vote not be taken or delayed.

SENATOR KAVANAUGH: Mr. Chairman, I think the last time we had this, there was a representative of the municipality voicing a negative position. Is that correct? You were here.

MR. FADER: I know, but I can't accept--

SENATOR KAVANAUGH: But he was here.

MR. FADER: --that testimony from--

SENATOR KAVANAUGH: But just as far as hearsay.

MR. FADER: Yes. I can't accept that testimony from anybody right now. I appreciate what Assemblyman Wisniewski has pointed out. I appreciate your comments that you can't speak on behalf of the municipality.

Are there any other objectors here, before we have the DEP speak?

(no response)

There are none.

Thank you very much for your testimony.

You can submit that to the Deputy Attorney General -- your papers.

If there's no other objectors, the representative from the New Jersey Department of Environmental Protection would like to come forward and speak on this.

NEIL YOSKIN, ESQ: Mr. Fader, I have-- I'm the representative of University Heights. I have signed up to give testimony as well.

MR. FADER: Oh, okay.

You can come forward then.

MR. YOSKIN: Thank you.

MR. FADER: Please state your name before you begin.

MR. YOSKIN: My name is Neil Yoskin, Y-O-S-K-I-N. I'm an attorney with Bennett & Yoskin. I represent University Heights, and I appeared here on June 21, as well, when this matter was first heard.

First, let me speak to Assemblyman Wisniewski's comment about authority to the position of the Borough. This is the Green Acres diversion application, which was filed in 2002. Included in it is both a letter from the Mayor of Franklin Lakes and a resolution by the Borough Council authorizing the Mayor and Council to apply for the Green Acres diversion, and pursuant to

the settlement agreement that was reached before Judge Harrison. The Law Division directed University Heights to do the leg work in pursuing the diversion application. So our position is that the Borough endorsed this application, executed the application, signed it in 2002, and nothing that the Borough Council has done since then would vitiate that particularly, since they would have had to have gone back to Judge Harris and amend the judicial consent decree.

Just briefly, by way of review, I would note that the Council letter, which we have not seen -- the December 11 Council letter -- refers back to a Borough resolution dated June 18, 2004, which was three days before this -- the Commission heard this matter in June. And I was, kind of, frantically taking notes while Mr. Meese was speaking, but the six points raised in that resolution were without merit.

The first was that the Borough hasn't consented to the terms of the Commissioner's letter. And as you may recall, on June 10, Commissioner Campbell wrote to Franklin Lakes and said that his interpretation of the standard, in the Green Acres regulation that requires that the public interest and welfare be met in making the Green Acres diversion, require him to ask that the number of affordable housing units be increased from 15 to 20, and that the fair market value of the diversion be increased from, I believe it was, 50,000 -- the original appraisal was 28,000 -- to \$100,000. At that point, since University Heights has the financial stake in this-- As for University Heights, we indicated in writing to DEP that the \$100,000 number was acceptable and that increasing the number of affordable housing units was acceptable. And I would remind the members of the Commission that this all started with affordable housing. The

Borough of Franklin Lakes has not one unit of affordable housing. And when this project was approved prior to my client ever being involved, it was approved for 44 townhouses with an affordable housing contribution, and a developer's agreement was signed. A developer's agreement which the Borough of Franklin Lakes later breached when it refused to allow the site to be developed.

As for the Commissioner's proposal being inconsistent with the University Heights proposal, which was the second of the Council members' comments, that it is not true. It only affects the number of affordable housing units. Otherwise, physically the project stays identical.

As to the third issue, the suggestion that Old Mill Road, which runs adjacent to this property and adjacent to the tennis courts across the street is a park road. That is not an open issue. There are a number of letters in the file in which DEP has confirmed that Old Mill Road is not a park road.

As for DEP having rules for deviating from the standards, I would leave that to DEP to address, but I would simply remind the Commissioners that the deviation was to increase the number of affordable housing units and to increase, by almost double, the amount of money being paid for the diversion.

And then the fifth comment was, whether there was a valid appraisal or whether just an arbitrary number was chosen. I don't know why this particular falsehood has ever made it this far. The Green Acres rules require that when you're not doing an in-kind compensation that you do a fair market value appraisal of the property and that that's what the monetary compensation will be. There was a fair market value appraisal of this property done by an appraiser whose work is accepted by the Green Acres office. And the Green

Acres office determined that the appraisal was valid. So there is an appraisal in the record. There's a copy of it in here.

And then finally, I mentioned as to the issue of the Borough having accepted the terms of Commissioner Campbell's standards. The suggestion would be that for some reason the Borough should not accept the \$100,000 and should only accept \$50,000 -- I don't think that you need a letter from the Borough which states its position one way or another. I can't think of a rational basis on which the Borough of Franklin Lakes would turn down that offer.

Those are my comments, Mr. Chair.

MR. FADER: Thank you.

Are there any questions for this witness? (no response)

Thank you.

MR. YOSKIN: One last matter, Mr. Chairman.

I'm just reminded that the resolution in June, and the December 11 notwithstanding, the Borough has not appealed and did not appeal the action of the Commission back in June.

Thank you.

MR. FADER: Once again, is there a representative from the DEP present to-- There's not?

DPT. ATTORNEY GEN. RACHEL HOROWITZ: I'm Deputy Attorney General Rachel Horowitz, and I'm representing the DEP and the State House Commission in the matter on appeal before the court. The DEP did--

MR. FADER: Please be seated.

DEPUTY ATTORNEY GENERAL HOROWITZ: The DEP did approve this. The Commissioner approved it. He sent it on to the State House Commission. And it's the Department's position that their criteria have been met. If they had not concluded that, they would not have sent it to you. We did ask for the remand from the court in light of the allegations of procedural irregularities. But on the substance of it, the Department's position remains that it satisfies the criteria for approval.

MR. FADER: Thank you.

Yes.

J U D E T H Y E A N Y: I'm Judeth Yeany from the DEP, and the Deputy is correct that our position at this point is that the remand is procedural, not substantive in nature. And I believe, probably in your packages, you have a copy of the Commissioner's original decision. He wrote a pretty lengthy decision back in June to explain his reasoning behind his approval. And I believe that his decision was captioned as conditional upon the Borough ultimately accepting some of the things that the citizens' group still are objecting to in the way of the conditions of the approval.

MR. FADER: Any questions? (no response)

No. Thank you very much.

Okay, with that being said, is there any-- Before I call for a roll call vote, is there any statements?

Yes.

SENATOR KENNY: As was stated by the representative from the Attorney General's office, this remand is procedural in nature. This Commission voted affirmatively in favor of this diversion back in June. I've

heard nothing today that would change that position, so I intend to support this diversion.

MR. FADER: Thank you, Senator Kenny.

Assemblyman Wisniewski.

ASSEMBLYMAN WISNIEWSKI: Mr. Chairman, we've received nothing, as I understand it, from the municipality, from the same people who applied. Nothing has come in saying, "Withdraw this application." Is that correct?

MR. FADER: That's correct.

ASSEMBLYMAN WISNIEWSKI: Okay. Thank you.

MR. FADER: Thank you.

I concur in your comments and the importance of providing affordable housing, knowing that the public interest really has been met with the transfer of only 0.1 acre of land to provide the needed affordable housing in this community. That's my feeling on it as well.

Can I have a motion to approve?

SENATOR KENNY: Move.

ASSEMBLYMAN WISNIEWSKI: Second.

MR. FADER: Senator Kenny.

Seconded by Assemblyman Wisniewski.

Can we have a roll call vote?

MR. SHAUGHNESSY: Chairman Fader?

MR. FADER: Yes.

MR. SHAUGHNESSY: Mr. Smartt?

DEPUTY TREASURER SMARTT: Yes.

MR. SHAUGHNESSY: Mr. Brune?

MR. BRUNE: Yes.

MR. SHAUGHNESSY: Senator Kenny?

SENATOR KENNY: Yes.

MR. SHAUGHNESSY: Senator Kavanaugh?

SENATOR KAVANAUGH: No.

MR. SHAUGHNESSY: Assemblyman Wisniewski?

ASSEMBLYMAN WISNIEWSKI: Yes.

MR. FADER: Okay. The motion carries.

Do we need a motion to adjourn? I think that's the end.

ASSEMBLYMAN WISNIEWSKI: So moved.

SENATOR KENNY: Second.

MR. FADER: Thank you.

(MEETING CONCLUDED)