
Commission Meeting

of

STATE HOUSE COMMISSION

LOCATION: Committee Room 7
State House Annex
Trenton, New Jersey

DATE: November 20, 2023
9:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assad Akhter, Chair
Senator Bob Smith
Senator Steven V. Oroho
Assemblyman Robert J. Karabinchak
Aaron Binder
Tariq Shabazz



ALSO PRESENT:

Eric D. Brophy
Commission Secretary

Tamara Loatman-Clark, Esq.
Deputy Attorney General for the State House Commission

Brittany Zulla
Acting Secretary
JRS Administrator

Robert E. Kelly
Deputy Attorney General for the Judicial Retirement System

Meeting Recorded and Transcribed by
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ASSAD AKHTER (Chair): Thank you everybody; good morning.

I am going to ask that we call the meeting to order, and ask Eric to call the roll -- or read the public notice.

MR. BROPHY: Yes, thank you. Thank you, Mr. Akhter.

We are in compliance with the Open Public Meetings Act. Notice of this meeting of the State House Commission was given by way of notice on November 15, 2023, filed with the Secretary of State, distributed to the White House Press Corps and posted in the offices of the State House Commission as well as on the State House Commission's website.

Let's take a roll.

Mr. Akhter.

MR. AKHTER: Here.

MR. BROPHY: Mr. Binder.

MR. BINDER: Here.

MR. BROPHY: Mr. Shabazz.

MR. SHABAZZ: Here.

MR. BROPHY: Senator Smith. (no response)

Senator Oroho.

SENATOR OROHO: Here.

MR. BROPHY: Assemblyman DiMaio. (no response)

Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Here.

MR. BROPHY: We have a quorum.

For the record, we did receive written comments from -- on some of these matters -- from Jean Public on November 17. They've been

distributed to the members of the Commission and will be made part of the record.

Number 1, we're moving to old business. Approval of the September 18, 2023 State House Commission meeting minutes. The verbatim record of the September 17, -- September 18, -- 2023 State House Commission will serve as the official minutes.

Can we have a motion?

SENATOR OROHO: So moved.

ASSEMBLYMAN KARABINCHAK: Second.

MR. BROPHY: Senator Oroho, second Assemblyman Karabinchak.

Mr. Akhter.

MR. AKHTER: Yes.

MR. BROPHY: Mr. Binder.

MR. BINDER: Yes.

MR. BROPHY: Mr. Shabazz.

MR. SHABAZZ: Yes.

MR. BROPHY: Senator Oroho.

SENATOR OROHO: Yes.

MR. BROPHY: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MR. BROPHY: One, two, three, four, five. All in favor.

OK, moving on to Department of Treasury requests.

Project RPR 22-05, 1600 Brooks Blvd., Block 65.4, Lot 2.01, in the Borough of Hillsborough -- that's in Somerset County.

The State of New Jersey Department of Treasury, on behalf of the Department of Children and Families, requests approval of a direct sale of 4.3 acres of land and improvements located at Block 65.4, Lot 2.01, also known as 1600 Brooks Blvd. in the Borough of Hillsborough in Somerset County, to the Borough of Manville. This action was originally approved by the State House Commission at its meeting on January 9, 2023, as a direct sale to the Township of Hillsborough for the appraised value of \$870,000. Since then, the Township has rescinded their offer to purchase the property. The State has been approached by the Borough of Manville to purchase the property.

Terms of the sale: The property will be sold via direct sale to the Borough of Manville for the appraised value of \$870,000. In the event a direct sale to the Borough does not occur, Treasury will dispose of the property via internet auction at the minimum bid price of \$870,000.

Do we have any comments from the Commission members? (no response)

Any public comments on this? (no response)

Hearing none, can I have a motion?

MR. BINDER: Motion.

MR. BROPHY: Mr. Binder.

Second?

SENATOR OROHO: Second.

MR. BROPHY: Senator Oroho.

Mr. Akhter.

MR. AKHTER: Yes.

MR. BROPHY: Mr. Binder.

MR. BINDER: Yes.

MR. BROPHY: Mr. Shabazz.

MR. SHABAZZ: Yes.

MR. BROPHY: Senator Oroho.

SENATOR OROHO: Yes.

MR. BROPHY: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MR. BROPHY: All in favor.

Moving on to Number 4, this is the -- I'm sorry, Number 3, project -- this is also the Department of Treasury request.

The State of New Jersey Department of Treasury, on behalf of the Department of Military and Veteran Affairs, requests approval of an easement consisting of 24,893.65 square feet, located on the grounds of the Sea Girt National Training Center -- National Guard Training Center -- in the Borough of Sea Girt, in Monmouth County, to Confluence Networks LLC, for the utilization of an existing underground telecom infrastructure for the installation of a new submarine cable system.

The term of the easement will be for 30 years with a one-time fee of \$1,120,230, which is the appraised value.

Any questions or comments from the Commission? (no response)

Any public comments on Number 3? (no response)

Hearing none, can I have a motion?

ASSEMBLYMAN KARABINCHAK: Motion to move.

MR. BROPHY: Assemblyman Karabinchak.

Second?

MR. SHABAZZ: Second.

MR. BROPHY: Mr. Shabazz second.

Mr. Akhter.

MR. AKHTER: Yes.

MR. BROPHY: Mr. Binder.

MR. BINDER: Yes.

MR. BROPHY: Mr. Shabazz.

MR. SHABAZZ: Yes.

MR. BROPHY: Senator Oroho.

SENATOR OROHO: Yes.

MR. BROPHY: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MR. BROPHY: All in favor.

Number 4, RPR 23-25, Marie Katzenbach School for the Deaf, Block 341, part of Lot 1, in Ewing Township in Mercer County.

Requesting party, the State of New Jersey Department of Treasury, on behalf of the Department of Education, requests approval to lease Rooms 99 and 104 in Building 1 of the Katzenbach School for the Deaf, located at 320 Sullivan Way in Ewing Township, Mercer County, to the New Jersey Association of the Deaf, a nonprofit organization, to be used as office space. The building is currently vacant.

The lease will be for Building 1, Rooms 99 and 104, for a term of one year, with five one-year renewal options. Since this action will benefit the State, the lease will be for \$1 per year.

Any questions or comments from the Commission? (no response)

Hearing none, any public comments? (no response)

Seeing none, can I have a motion?

SENATOR OROHO: So moved.

MR. BROPHY: Senator Oroho.

Second?

ASSEMBLYMAN KARABINCHAK: Second.

MR. BROPHY: Assemblyman Karabinchak.

Mr. Akhter.

MR. AKHTER: Yes.

MR. BROPHY: Mr. Binder.

MR. BINDER: Yes.

MR. BROPHY: Mr. Shabazz.

MR. SHABAZZ: Yes.

MR. BROPHY: Senator Oroho.

SENATOR OROHO: Yes.

MR. BROPHY: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MR. BROPHY: All in favor.

Number 5. These are Department of -- DEP requests.

Raritan River Confluence State Park, Block 48, part of Lot 11.06, in the Township of Hillsborough in Somerset County.

The DEP requests approval to execute a farm-lease agreement on approximately 3.69 acres of land, located in the Raritan River Confluence State Park, in the Township of Hillsborough, Somerset County, to Norz Hill Farm & Market, LLC, who has occupied the proposed leased premises under a lease that will expire on December 31, 2023.

Norz Hill Farm & Market, LLC, approached the DEP about continuing to farm the land. The DEP has reviewed the request and has determined that leasing the property to the tenant for agricultural purposes will not interfere with the protection and enhancement of wildlife habitat, or the operation of the Raritan River Confluence State Park. The tenant will access the DEP lands through adjacent private property that they currently rent from a private individual to farm.

Because there is no direct access to the proposed leased premises from a public road, nor is the leased premises accessible through other lands managed by the DEP, the DEP was unable to include the proposed leased premises in the public auction of farm leases it conducted on August 10, 2023.

The initial term of the lease is for five years with an option to renew for three additional five-year terms. The proposed rental rate is \$159 per year for the initial five-year lease term, subject to adjustment at the start of each renewal term.

The DEP initiated the leasing program to establish formal land leases on DEP land to provide all farmers with the opportunity to farm portions of its land, and to set a fair market value for the leases. If the proposed lease is not approved, the fields would be unmanaged, resulting in reversion to woodlands, encouraging the growth of invasive plant species, and discouraging certain types of wildlife species.

The DEP established the proposed annual rate of \$159 for the first five years of the lease using soil rental rates set by the Farm Services Agency of the United States Department of Agriculture. The rates are based on the composition and productivity of each soil type found in the leased

area -- the more productive the soil, the higher the rental value. As a result of prior discussions with the New Jersey Department of Agriculture and the New Jersey Farm Bureau, the DEP agreed to reduce the FSA rental rate by 20% to account for the disadvantages of farming on DEP land. These disadvantages include the requirement that the farmed lands be used for public hunting -- I think *not* be used for public hunting; restrictions on the types of crops that can be grown; and the inability to control wildlife damage using management tools, such as deer fencing or wildlife depredation permits. The DEP believes that 20% is a reasonable reduction, because, although there are some disadvantages to farming on DEP land, the disadvantages do not significantly reduce the productivity of the land.

The rental rate will be increased at the beginning of each renewal term to reflect the current fair market value of the leased premises based on the Consumer Price Index; FSA soil rental rates; or value of similar real estate rentals. However, if the Consumer Price Index and value of similar real estate rentals decrease or remain stable, the rent will not decrease.

All right, any questions or comments from the Commission members? (No response)

Any public comments? (no response)

Hearing none, can we have a motion?

SENATOR OROHO: So moved.

MR. BROPHY: Senator Oroho.

ASSEMBLYMAN KARABINCHAK: Second.

MR. BROPHY: Second, Assemblyman Karabinchak.

OK.

Mr. Akhter.

MR. AKHTER: Yes.

MR. BROPHY: Mr. Binder.

MR. BINDER: Yes.

MR. BROPHY: Mr. Shabazz.

MR. SHABAZZ: Yes.

MR. BROPHY: Senator Oroho.

SENATOR OROHO: Yes.

MR. BROPHY: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MR. BROPHY: For the record, Senator Smith is now on the record.

SENATOR SMITH: Yes. And, also, please record me for the prior items.

MR. BROPHY: As a vote--

SENATOR SMITH: In favor, yes.

MR. BROPHY: Got it.

SENATOR SMITH: And, please do something about Route 1.
(laughter)

MR. BROPHY: Yes, sir.

MR. AKHTER: Less traffic (indiscernible).

MR. BROPHY: All in favor on that one.

Number 6, Delaware and Raritan Canal State Park, Block 5, part of Lot 2, Borough of Stockton in Hunterdon County.

The DEP requests approval of a 20-year lease with Sheryl Wall for the installation, operation, and maintenance of a 1 ¼-inch PVC force main to connect to an underground collection tank on her property to the

Stockton Borough sewer line within a 20-foot-wide temporary construction/maintenance area. The Stockton Borough sewer line is located in Route 29. The proposed lease will benefit the public by allowing the tenant to decommission a cesspool which presently services the tenant's property, which is at Block 5, Lot 1. The cesspool is malfunctioning and is not able to be repaired. The cesspool is proximate in location to the Wickecheoke Creek and could potentially impact the creek if it fails. By safely decommissioning the cesspool on the tenant's property, and installing a more environmentally friendly alternative, there is less risk of causing a negative impact to the surrounding environment and water source. If DEP does not enter into the proposed lease, the tenant would either one, continue to utilize the cesspool in its present condition; or, two, run a sewer line across the Wickecheoke Creek, through other private property to reach the main sewer line located in Route 29.

The proposed rent for the first year of the lease is \$500, with a 3% annual escalation. The proposed year one rental rate represents a 50% discount from DEP's standard minimum rental rate based on the environmental benefits to be gained from discontinuing use of the cesspool and the tenant's agreement to give DEP a right of first refusal in the event she decides to sell or transfer the property to anyone other than a family member. The total rent over the 20-year term will be \$13,435.19.

Any questions or comments from the Commission? (no response)

Any public comments? (no response)

Seeing none, can I have a motion?

MR. SHABAZZ: Motion.

MR. BROPHY: Mr. Shabazz.

Second?

ASSEMBLYMAN KARABINCHAK: Second.

MR. BROPHY: Assemblyman Karabinchak.

Mr. Akhter.

MR. AKHTER: Yes.

MR. BROPHY: Mr. Binder.

MR. BINDER: Yes.

MR. BROPHY: Mr. Shabazz.

MR. SHABAZZ: Yes.

MR. BROPHY: Senator Smith.

SENATOR SMITH: Yes.

MR. BROPHY: Senator Oroho.

SENATOR OROHO: Yes.

MR. BROPHY: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MR. BROPHY: All in favor.

Number 7, this is a Department of Transportation request.

South Jersey Airport, Block 31, Lots 5 and 6.01; Block 33, Lots 7, 8, 12, 13, and 14.01; Block 36, Lot 14; Block 38, Lot 4.01; in the Township of Lumberton in Burlington County.

The DOT requests approval to renew the current farm lease on approximately 386 acres of unencumbered farm land at the South Jersey Airport in Lumberton Township, Burlington County. The use for farming prevents the growth of trees in the flight zone that would imperil the safety of planes using the runway. Farming is done outside of the runway setback

and reduces the operating costs for mowing these open areas. The lease also returns some income to the airport program along with providing an agricultural buffer to the airport operations. The property is operated as an airport by the State.

The farmland lease area will be renewed through an online auction. The recommended auction start price is \$50 per acre. The auction of lease rights is on a per-acre basis to allow for flexibility if certain acreage is later determined to be inaccessible for farming. The in lieu of tax payments is \$19.10 per acre, which is paid by the State out of rental proceeds, as farm leases do not include any real estate tax payments.

Any questions or comments from the Commission members?

(no response)

No? Any public comments? (no response)

Seeing none, a motion?

SENATOR SMITH: So moved.

ASSEMBLYMAN KARABINCHAK: Second.

MR. BROPHY: Mr. Akhter.

MR. AKHTER: Yes.

MR. BROPHY: Mr. Binder.

MR. BINDER: Yes.

MR. BROPHY: Mr. Shabazz.

MR. SHABAZZ: Yes.

MR. BROPHY: Senator Smith.

SENATOR SMITH: Yes.

MR. BROPHY: Senator Oroho.

SENATOR OROHO: Yes.

MR. BROPHY: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MR. BROPHY: All in favor.

Number 8, project Route 18, parcels 15, R2J1A, VXR2J1A1, and parcel VXR2J1B adjoining to Block 952, Lot 7.02, in Wall Township, Monmouth County.

The DOT requests approval to exchange an existing DOT maintenance facility on DOT-owned excess land identified as parcels 15, R2J1A, VXR2J1A1, and parcel VXR2J1B on Route 18 in Wall Township, Monmouth County, for a replacement site on adjoining Block 952 Lot 7.02 in Wall Township, Monmouth County, owned by JSM at 4000 West 18th Ave., LLC, the developer. The exchange is part of a proposed swap of DOT's existing maintenance area for an improved property that will provide the department with a more strategic location in terms of proximity to critical highway facilities, particular I-195. The property is being sold/exchanged as an assemblage to the developer's adjoining lot in accordance with appropriate statutes.

The Commissioner of Transportation does hereby determine that the parcels are no longer required for use by the department in the improvement, reconstruction, or maintenance of any State highway, and that the replacement site provides a better location for the maintenance facility. The State has held title for more than 10 years. The County and Township have not been offered the property, as this is an exchange and not a sale of property to obtain a new maintenance facility.

The transaction will be based on the appraised value of \$3,910,000 for the State facility, and the appraised value of \$2,740,000 for

the replacement site, with a difference of \$1,170,000. The difference to be paid to DOT would be reduced by the necessary and reasonable costs for the developer to remove several small existing structures from Lot 7.02; two, install fencing on Lot 7.02 for use at the new maintenance facility; and three, undertake environmental remediation of the existing state facility, which would normally be done by the State. The estimated cost for these items is approximately \$651,799,000, which would be put into escrow to reimburse the developer, with any remainder funds returning to the department.

Any questions or comments from the Commission members?

(no response)

Seeing none, any public comments? (no response)

Seeing none, can we have a motion?

ASSEMBLYMAN KARABINCHAK: Motion to move.

MR. BROPHY: Can we have a second?

MR. SHABAZZ: Second.

MR. BROPHY: Mr. Akhter.

MR. AKHTER: Yes.

MR. BROPHY: Mr. Binder.

MR. BINDER: Yes.

MR. BROPHY: Mr. Shabazz.

MR. SHABAZZ: Yes.

MR. BROPHY: Senator Smith.

SENATOR SMITH: Yes.

MR. BROPHY: Senator Oroho.

SENATOR OROHO: Yes.

MR. BROPHY: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MR. BROPHY: All in favor.

So, now, we're going to move onto Number 9, which is the Division of Pension and Benefits request for the Department of Treasury, Division of Pension and Benefits.

The State House Commission will sit as the Board of Trustees for the Judicial Retirement System.

So, can we have a motion to move into that?

SENATOR OROHO: So moved.

SENATOR SMITH: Second.

MR. BROPHY: Mr. Akhter.

MR. AKHTER: Yes.

MR. BROPHY: This is moving into JRS.

Mr. Binder.

MR. BINDER: Yes.

MR. BROPHY: Mr. Shabazz.

MR. SHABAZZ: Yes.

MR. BROPHY: Senator Smith.

SENATOR SMITH: Yes.

MR. BROPHY: Senator Oroho.

SENATOR OROHO: Yes.

MR. BROPHY: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MR. BROPHY: Now sitting as JRS.

SENATOR SMITH: So, before we proceed, unfortunately I have an Environment Committee scheduled at 10 a.m., so I would ask, if you can

-- there is a matter I wanted to weigh in on, and that was Number 5, Judge Council.

I ask that that be moved up so I can participate in the discussion and then go to the hearing.

MR. AKHTER: I have no objections to moving that up to the top of the agenda.

MS. ZULLA: OK.

MR. AKHTER: There is no other serious matter here so we can, we can--

MS. ZULLA: Your separate presentation is about 10 minutes from pension.

MR. AKHTER: OK, so, we'll move that to -- if there's no objection, we'll move Judge Council's consideration up to the front of the agenda.

MS. ZULLA: OK.

OK, first on the agenda is the honorable service review for Judge Gerald Council.

Is there anyone here-- Do you want to--

J U D G E G E R A L D J. C O U N C I L: (indiscernible)

MS. ZULLA: Is there anything you would like to say?

JUDGE COUNCIL: What I would say is--

MR. AKHTER: Your Honor, if you could hold your remarks to three minutes.

JUDGE COUNCIL: Oh, absolutely. Absolutely.

I am here, obviously, asking the Commission to approve my pension in full. You've read the submissions, but, more importantly, Judge Grant pretty much lays it out.

I have served, honorably, for close to 26 years. I had this isolated incident; it is what it is. I have taken responsibility for that. Ultimately I may end up serving a 30-day suspension without pay, which was a significant impact on my family.

As you all know, I retired August 31. I submitted my application September of 2022, and I had no idea that my pension would be in question. I retired on August 31; I was not notified until sometime in mid-September that there was an issue with my pension. So, you can just imagine the stress and anxiety that me and my family have gone under as a result of this.

So, my request is simple: Is to allow me to collect my full pension.

MR. AKHTER: I can -- if there are any questions from the members here from the trustees here -- I will ask that we finish here to go into executive session for discussion.

SENATOR SMITH: It's the first time I've seen, acting as the Judicial Retirement System without clearing the room.

MR. AKHTER: Well, yes, we will clear the room once we're done here with Judge Council.

But, if there is any direct questions to him or any public comment. (no response)

OK, that being said, I will ask for a motion to move into executive session.

MR. BINDER: So moved.

SENATOR SMITH: Second.

MS. ZULLA: Mr. Akhter.

MR. AKHTER: Yes.

MS. ZULLA: Mr. Binder.

MR. BINDER: Yes.

MS. ZULLA: Mr. Shabazz.

MR. SHABAZZ: Yes.

MS. ZULLA: Senator Smith.

SENATOR SMITH: Yes.

MS. ZULLA: Senator Oroho.

SENATOR OROHO: Yes.

MS. ZULLA: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MS. ZULLA: All.

Can everyone--

MR. AKHTER: Your Honor, we will let you know when we're
done.

JUDGE COUNCIL: Thank you.

MS. ZULLA: Can we clear the room?

Thank you.

(EXECUTIVE SESSION BEGINS 9:30 a.m.)

(EXECUTIVE SESSION ENDS 9:38 a.m.)

MR. AKHTER: We are now out of Executive Session.

I will -- as is the procedure, I will now read the Uricoli factors, as is the procedure in these types of matters.

NJSA 4431-3 establishes 11 factors the Board of Trustees is to consider and balance in view of the goals of pension statutes, which is to determine whether forfeiture or partial forfeiture of retirement benefits is appropriate due to dishonorable service.

These factors are: One, the member's length of service: Judge Council has 25 years and seven months in the Judicial Retirement System. Two, the basis of retirement: Judge Council applied for service retirement, effective September 1, 2023. Three, the extent to which the member's pension has invested: Judge Council has invested in the JRS at a time separated from service. Four, the duties of the particular member at the time of the alleged dishonorable service: In 2012, Judge Council was Presiding Judge of the Criminal Division of the Superior Court, Mercer vicinage, and also presided over the Mercer County Drug Court Program.

The member's public employment history, Number 5: Public employment history and covered under the retirement system, Judge Council enrolled in the JRS on February 18, 1998 upon his elevation to the bench. Any other public employment, Number 6: Judge Council had 10 months of service credit in the Public Employees Retirement System, based on his employment at the Office of the Governor in 1984. This service credit is not included in his JRS account.

Number 7, the nature of the misconduct or crime, including the gravity or substantiality of the offense; whether it was a single or multiple offense; and, whether it was continuing or isolated: Judge Council was accused of demeaning AJ, a member of the Mercer County Drug Court staff

from (indiscernible) to 2012, who was assigned to work with him. On three separate occasions in March and April 2012 -- first on March 6, 2012 -- Judge Council shushed AJ in his courtroom in front of the Drug Court participant, while placing his hand in front of her face and telling her that he “did not want to hear from her.” Second, on March 22, 2012, during a Judiciary meet-and-greet event, Judge Council placed his hands on AJ’s neck and shoulders and, in front of her colleagues, physically compelled her to leave the room, directing her to return to her regular duties. Later that day, AJ advised a co-worker that she was embarrassed by this treatment. AJ was reluctant to report the incident, afraid that any complaint would result in her termination. Third, on April 2, 2012, at the conclusion of a Drug Court team meeting, three team members witnessed Judge Council grasp AJ’s ear, pull her a few steps out of the room by her ear, and direct her back to work. Again, AJ was reluctant to report this incident due to fear of termination.

In addition, Judge Council was accused of using nicknames when referring to two members of the Drug Court team, Drug Court participants, and lawyers. Judge Council was also alleged to have referred to an employee as “his little pet” during a staff meeting, in front of several Drug Court team members. On April 30, 2012, the Mercer Vicinage EEOAA officer filed a complaint on AJ’s behalf, alleging that three incidents in March and April 2012 constituted sexual harassment and gender discrimination. After an investigation hearing, the agency had Judge Grant determine that the touching incidents were not motivated by AJ’s gender, and that the shushing of AJ was based on a legitimate business reason under the circumstances.

On April 18, 2012, AJ filed an ethics grievance, which she supplemented on December 19, 2012. AJ characterized the shushing

incident as one of several incidents in which Judge Council's manner of speaking to her made her feel belittled. On April 1, 2014, after conducting its own investigation, interviewing witnesses, obtaining Judge Council's written comments, and reviewing documentation, including the entire EEOAA unit's investigative file, the Advisory Committee on Judicial Conduct issued a formal complaint against Judge Council, charging him with conduct in contravention of canons 1, 2A, and 3A-3 of the Code of Judicial Conduct by one, demeaning and publicly humiliating AJ on three separate occasions, twice by touching her inappropriately in an effort to remove her from his presence, and once by abruptly silencing her with a shush and a hand gesture in the presence of a Drug Court participant; and, two, treating certain employees discourteously in an undignified manner by referring to those employees using nicknames rather than their given names.

On March 2, 2014, Judge Council filed an answer, denying that he had violated the canons of judicial conduct. A hearing took place on January 13, 2015; February 5, 2015; and February 19, 2015. Judge Council appeared with council and offered his own testimony and that of eye witnesses, and the ACJC called seven witnesses and one rebuttal witness. Judge Council professed to have no recollection of touching AJ inappropriately at the meet and greet, and emphatically denied pulling her by the ear after the Drug Court team meeting. Briefs were submitted, including a supplemental brief in which Judge Council noted that he attended sensitivity training in August 2012. In addition to denying that inappropriate touching occurred, Judge Council stated that all but one of the ACJC's witnesses had a motive to disparage him, and had fabricated the

touching incidents, but he knew of no reason the remaining witness may have had for fabricating testimony.

The ACJC explained, in detail, its reasons for crediting the testimony of the witness over Judge Council's speculative testimony about their motives. The ACJC found that the allegations of inappropriate touching of AJ, and the allegation that Judge Council used nicknames, were proven by clear and convincing evidence, but the charge that he violated judicial canons when he shushed her was not. The ACJC did not find that the use of nicknames warranted discipline.

Therefore, the charges presented to the Supreme Court on July 22, 2015, where Judge Council had violated the canons -- (indiscernible) canons 1, 2A, and 3A-3 -- as a judge, the code of judicial conduct by touching AJ in a demeaning and offensive manner on two occasions. The ACJC recommended a one-month, unpaid suspension as the appropriate quantum of discipline based on the impact on AJ, which led her to leave a job, by all accounts, she performed well.

The ACJC view that Judge Council had not testified with complete candor; the deliberate nature of the misconduct; the evident sense of entitlement Judge Council displayed in grasping AJ by the ear and the power imbalance between Judge Council and AJ. The ACJC found substantial aggravating factors -- mitigating factors -- where Judge Council's dedicated service of 17 years as a judge, the last eight as Presiding Criminal Division Judge. The ACJC minimized the mitigating factor of Judge Council's attendance in sensitivity training, finding that he had been required to attend these by the assignment judge.

In addition to recommending a suspension, the ACJC recommended that the court consider reassigning Judge Council for (indiscernible) of leadership. Within the judiciary, Justice Virginia Long and two judges dissented in part, concurring in the ACJC factual findings, but arguing the serious penalty of censure would be sufficient. The censures took note of Judge Council's account. The Criminal Division in the Mercer vicinage had been in shambles when he took over, that he felt the need to be a taskmaster. The two touching incidents related to Judge Council's supervisory duties, and not his judicial duties, and if he had not touched AJ, his directing her back to work would have been within his rights. Additionally, the inappropriate touching was not sexual, as in cases relied upon by the majority.

On December 2, 2015, the New Jersey Supreme Court adopted the recommendations of the ACJC and suspended Judge Council from December 7, 2015, through January 6, 2016. Justice LaVecchia dissented as to the quantum of discipline on the grounds set forth in ACJC dissent.

Number 8: The relationship between the misconduct and the member's public duties. And, here, I will say that the misconduct has been clearly stated by what I just provided.

Number 9: The quality of moral turpitude, or degree of culpability, including the member's motives and reasons, personal gain, and similar consideration. Again, I will refer back to the statement I made as to the actions that were taken.

The availability and adequacy of other penal sanctions. Judge Council was -- this is Number 10 -- Judge Council was publicly disciplined by the Supreme Court, serving a one-month suspension without pay, resulting

in a loss of gross compensation of \$13,750. Subsequently, at Judge Council's request, he was reassigned to Middlesex County. Judge Council's public discipline and unpaid suspension reflected the seriousness of his abuse of supervisory duties on two occasions. However, his record both before and after the incidents on March 22 and April 2, 2012, reflects long periods of honorable service totaling over 25 years as letters submitted on his behalf point out. Therefore, the statutory default of stopping the accrual of pension benefits as of the time of dishonorable service commenced clearly would result in an excessive penalty.

If there are any other trustees who wish to provide anything here--
- (no response)

Other personal-- Number 11: Other personal circumstances related to which a member, which upon the justice of-- Sorry. Relating to the member, which bear upon the justness of forfeiture. I have no personal circumstances related here to relay.

I will ask if the judge has any other comments at this time, if you have any other comments at this time.

JUDGE COUNCIL: No, other than the consideration of what Judge Grant said, which is -- clearly, he is the person who would know best whether or not I've served honorably. As well as Judge Toto, who I subsequently served in Middlesex. Judge Toto also opined that I served honorably. With the exception of that incident, I had no other blemishes on my record. I thought I was a pretty good jurist.

MR. AKHTER: Thank you, Your Honor.

At this time, given the consideration of everyone here, it is the
-- I will ask for a motion to offer no forfeiture on the pension, and for a full
pension benefit for Judge Council.

SENATOR SMITH: So moved.

SENATOR OROHO: Second.

MS. ZULLA: Mr. Akhter.

MR. AKHTER: Yes.

MS. ZULLA: Mr. Binder.

MR. BINDER: Yes.

MS. ZULLA: Mr. Shabazz.

MR. SHABAZZ: Yes.

MS. ZULLA: Senator Smith.

SENATOR SMITH: Yes.

MS. ZULLA: Senator Oroho.

SENATOR OROHO: Yes.

MS. ZULLA: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MS. ZULLA: All in favor.

MR. AKHTER: OK, thank you.

JUDGE COUNCIL: Thank you.

MR. AKHTER: That matter being considered, we will move
back to the original agenda.

SENATOR SMITH: Sorry, Chair--

MR. AKHTER: Thank you, Senator, appreciate it.

SENATOR SMITH: (indiscernible)

MR. AKHTER: I'm sorry, Senator Smith, before you leave -- are you leaving votes in the affirmative to all the other matters?

SENATOR SMITH: I had to recuse myself on the Carlia Holt--

MR. AKHTER: We're not -- that's not on the agenda anymore.

SENATOR SMITH: Yes.

MR. AKHTER: Thank you, Senator.

MS. ZULLA: Next on the agenda, the approval of the minutes of the meeting held on September 18, 2023.

MR. AKHTER: I'll move that.

MR. SHABAZZ: Second.

MS. ZULLA: Mr. Akhter.

MR. AKHTER: Yes.

MS. ZULLA: Mr. Binder.

MR. BINDER: Yes.

MS. ZULLA: Mr. Shabazz.

MR. SHABAZZ: Yes.

MS. ZULLA: Senator Oroho.

SENATOR OROHO: Yes.

MS. ZULLA: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MS. ZULLA: All in favor.

Number 2 on the agenda: Confirmation of death claims, retirements, and survivor benefits.

Can I have a motion?

SENATOR OROHO: So moved.

MS. ZULLA: Second?

MR. AKHTER: Second.

MS. ZULLA: Mr. Akhter.

MR. AKHTER: Yes.

MS. ZULLA: Mr. Binder.

MR. BINDER: Yes.

MS. ZULLA: Mr. Shabazz.

MR. SHABAZZ: Yes.

MS. ZULLA: Senator Oroho.

SENATOR OROHO: Yes.

MS. ZULLA: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MS. ZULLA: Thank you.

Next, receive financial statements for June 2023.

SENATOR OROHO: So moved.

MR. AKHTER: Second.

MS. ZULLA: Mr. Akhter.

MR. AKHTER: Yes.

MS. ZULLA: Mr. Binder.

MR. BINDER: Yes.

MS. ZULLA: Mr. Shabazz.

MR. SHABAZZ: Yes.

MS. ZULLA: Senator Oroho.

SENATOR OROHO: Yes.

MS. ZULLA: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MS. ZULLA: All in favor.

Next, we have a presentation of retirement option factors.

Can the Division of Pensions come up?

D A V I D P R E S T O N: Good morning.

MR. AKHTER: Good morning.

MR. PRESTON: My name is David Preston, I am the Assistant Director of Finance over at Pensions.

T I M M Y H R E: Hi, my name is Tim Myhre; Assistant Director of Pension Operations, Division of Pensions and Benefits.

So, we come before you today to inform you that the Division of Pensions and Benefits will be updating their retirement option factors. We have not done that in upwards of 20 years. So, we will go ahead and proceed with updating the Judicial Retirement System option factors.

Some of you may not be familiar with option factors -- they are for the joint survivor benefit of the member and the beneficiary. Currently, we're using empirical factors. Empirical option factors are simplified for ease, administering, and understanding. Our actuary, Cheiron, has recommended we use the actuarial equivalent option factors. They will be coinciding with each experience study that takes place over three years.

Furthermore, the actuarial equivalent factors are based on a 7% assumed rate of return, and the most recent mortality table -- which, again, we haven't used in over 20 years. Right now, we are testing the Judicial Retirement Database; we are also updating the fact sheet, as well as our Judicial Retirement publications. The rollout date is January 1, 2024, with an effective payroll date 2-1-2024.

Anybody who retired prior to 1-1 will not be impacted; anybody who retires January 1, going forward, will have the new option factors used in their calculation.

I'll turn it over to David.

MR. PRESTON: So, I think you pretty much covered it.

But, I will say that for the joint option factors, when it's a single person or a person who doesn't have a beneficiary, then they get the maximum option. But, there's an adjustment, and that's what the option factors do. Because the joint options have to take into account the lifespans of both the member and the beneficiary. So, the option factor that the actuaries have given us take into account the combined lifespan of the member *and* the beneficiary, so that, essentially, the discounted present value of all the benefits, regardless of what option a person selects, the present value is the same because we don't want to be giving people an enhanced benefit over somebody else.

So, the option factors do -- they take care of -- like Tim said, they consider the interest rate and the mortality tables -- the latest mortality tables -- and we're using the mortality tables for the judges. So, we have separate mortality tables.

One thing Tim didn't mention is we're also updating the PERS that teachers *and* the JRS -- that's three systems. So, currently, I believe all those systems use the same factors. But, we can be more precise by using custom factors for the judges by population, and for the teachers, by population, and for the public employees, because they all have their own, depending on their lifestyle and so forth, mortalities. So, the option factors

take all of that into consideration, and then the reduction is based or calculated, and it's all figured into the new option factors.

MS. ZULLA: Any questions?

SENATOR OROHO: Just one question.

So, since the present value isn't changing, it'll have none of the discounted cash flow? It'll have no impact on the unfunded status? Or, it will?

MR. PRESTON: No, it won't, because for that calculation, they already use the maximum option.

SENATOR OROHO: OK, OK.

MR. PRESTON: So, everyone can calculate with a maximum option in mind.

What this new option factor will do, since it's going to align all the options so that they'll have the same present value, it will mean that there won't be any gains or losses--

SENATOR OROHO: OK--

MR. PRESTON: --on the valuations, the actuarial valuations.

MR. MHYRE: This is intended to benefit member and system versus the current methodology we have right now; we're seeing a different trend.

So, this will benefit -- from what we were told by the actuary -- both the member and the system.

SENATOR OROHO: OK, that's all -- OK, thank you.

MS. ZULLA: Any other questions? (no response)

Can I have a motion to receive the presentation of option factors?

SENATOR OROHO: So moved.

ASSEMBLYMAN KARABINCHAK: Second.

MS. ZULLA: Mr. Akhter.

MR. AKHTER: Yes.

MS. ZULLA: Mr. Binder.

MR. BINDER: Yes.

MS. ZULLA: Mr. Shabazz.

MR. SHABAZZ: Yes.

MS. ZULLA: Senator Oroho.

SENATOR OROHO: Yes.

MS. ZULLA: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MS. ZULLA: All in favor.

OK, now, can I have a motion to--

MR. PRESTON: Thank you.

MR. MHYRE: Thank you.

MS. ZULLA: --to return to State House Commission?

MR. BINDER: Motion.

MR. AKTHER: Second.

MS. ZULLA: Mr. Akhter.

MR. AKHTER: Yes.

MS. ZULLA: Mr. Binder.

MR. BINDER: Yes.

MS. ZULLA: Mr. Shabazz.

MR. SHABAZZ: Yes.

MS. ZULLA: Senator Oroho.

SENATOR OROHO: Yes.

MS. ZULLA: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MS. ZULLA: All in favor.

MR. AKHTER: As the-- Before we conclude as the State House Commission, I do want to bring up Senator Testa, who is an alternate member of this Commission, submitted a letter specific to the easements and other things that the Commission approved related to the Ørsted Wind Development Project, which they publicly stated that they were ending investment in.

Senator Testa had asked for a presentation or an update from the State. The Department of Environmental Protection presented a letter here, which I can -- I will ask that we, first of all, that we put Senator Testa's letter into the record; the statement of the DEP into the record, which I can read publicly if members would like. Otherwise, I think we have copies for everybody.

And, there is -- Senator, would you like me to read this into the record today?

SENATOR OROHO: No, I would just like to read it.

MR. AKHTER: Oh, absolutely.

SENATOR OROHO: The biggest question is, you know--

MR. AKHTER: At this point -- yes, at this point it's simply an update. You understand that this matter is -- there has only been a certain amount of official action on the government side, separate from public statements that have been made by the company in question.

MS. BUSSELL: (indiscernible)

MR. AKHTER: That would be great, thank you.

There is also a statement from the DOT which we didn't have at the time to print it, so I will read it into the record, because the DOT also has an easement on the record. This is from the Department of Transportation.

“Following the State House Commission approval at its meeting on March 3, 2023, the NJDOT's proposed utility easement transfer to Ocean Wind, LLC, we've perfected the agreement and the State has paid in full, in accordance with the terms in the agreement as approved by the State House Commission. The deed of easement was signed by both parties on October 4, 2023, and recorded on book 1-9-508, page 270, with the Ocean County Clerk.”

So, that is the latest update as to any action taken with regards to that easement that was approved by this Commission. There is no further comment from either agency in regards to-- We will submit both these-- Cindy, can you make sure both these statements get to Senator Testa, please?

MS. BUSSELL: Yes.

MR. AKHTER: Senator Oroho, Assemblyman Karabinchak, any other matters?

SENATOR OROHO: No. Just, hopefully, we will continue to -- as the State House Commission goes forward, we continue to update this. Because obviously it's a very significant issue with respect to those leases, and, obviously, what the company may or may not do.

MR. AKHTER: Yes, and I will just say that there is -- without saying too much -- that there is a difference between what they've said, or have said publicly, and any official action in regards to governmental actions

taken by this Commission or other entities of the government and agreements made by the organizations.

So, officially, this is the latest update as to where we stand governmentally, separate from any public statements or private conversation.

SENATOR OROHO: Understood. Thanks.

MR. AKHTER: Thank you, Senator.

Before we conclude, I would also like to thank -- being that this should be -- barring any matters that come before us -- the last meeting of the year and the last meeting of this session.

I would like to thank all the members who have served, either as members or as alternate members, to make the time to be here. And, I don't know what the new roster will look like in the new year, but I know that we will lose Senator Oroho, and I thank you so much, sir, for your service to the Senate over these last 15 years. Your time on this Commission proceeds that of ours on this side of the dais, so thank you for all your service and everything you've done.

SENATOR OROHO: Well, thank you very much.

It's been an honor just being able to serve within the Senate. I never expected I'd be able to do it, and my mother probably thinks, "How in the hell did he ever get down there?" My teachers and stuff.

But, anyway, thank you very much. It's been an honor and a pleasure. Thank you.

MR. AKHTER: And, out of all the accomplishments you've had to explain, I'm sure explaining the State House Commission and the JRS to people to understand what it is that we actually do here. If you have a better

way of explaining it than I do, please let me know. Because I've had trouble; I've had trouble.

SENATOR OROHO: (laughter) Thanks.

MR. AKHTER: That being said, I will ask for a motion to adjourn.

SENATOR OROHO: So moved.

ASSEMBLYMAN KARABINCHAK: Second.

MR. BROPHY: Mr. Akhter.

MR. AKHTER: Yes.

MR. BROPHY: Mr. Binder.

MR. BINDER: Yes.

MR. BROPHY: Mr. Shabazz.

MR. SHABAZZ: Yes.

MR. BROPHY: Senator Smith is no longer here.
Senator Oroho.

SENATOR OROHO: Yes.

MR. BROPHY: Assemblyman Karabinchak.

ASSEMBLYMAN KARABINCHAK: Yes.

MR. BROPHY: All in favor.

Thank you.

MR. AKHTER: Thank you.

(MEETING CONCLUDED)