
Commission Meeting

of

STATE HOUSE COMMISSION

LOCATION: Committee Room 10
State House Annex
Trenton, New Jersey

DATE: February 13, 2020
9:00 a.m.

MEMBERS OF COMMISSION PRESENT:

Justin Braz, Chair
Senator Bob Smith
Senator Gerald Cardinale
Assemblyman Paul D. Moriarty
Assemblyman John DiMaio
Catherine Z. Brennan
Jacki Stevens



ALSO PRESENT:

Robert J. Shaughnessy Jr.
Commission Secretary

Gary A. Kotler, Esq.
Commission Counsel

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

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(The New Jersey State House Commission held a meeting on February 12, 2020, at 9:00 a.m. Members of the Commission present via teleconference were Senator Bob Smith.)

MR. SHAUGHNESSY (Commission Secretary): Good morning. Welcome to the February 13, 2020, State House Commission meeting.

We'll begin by indicating we are in compliance with the Open Public Meetings Act. Notice of this meeting has given by way of notice, filed with the Secretary of State, delivered to the State House Press Corps, and posted in the Office of the State House Commission.

Notice of the meeting is also on the Commission's websites.

I'll call the roll, at this point.

Deputy Chief of Staff Braz.

JUSTIN BRAZ (Chair): Here.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Here.

MR. SHAUGHNESSY: Associate Director Stevens.

MS. STEVENS: Here.

MR. SHAUGHNESSY: Thank you.

Senator Smith.

SENATOR SMITH: Here.

MR. SHAUGHNESSY: Thank you.

Assemblyman Moriarty is going to be here momentarily.

Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Here.

MR. SHAUGHNESSY: Thank you.

We have a quorum, Mr. Chair.

At the outset I'd like to say that No. 14 on this agenda regarding Liberty State Park is being held.

Moving on to Old Business first -- No. 1, approval of the September 23, 2019 State House Commission meeting minutes.

May I have a motion, please?

Does anyone have any questions or comments concerning those minutes? (no response)

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Second?

ASSEMBLYMAN DiMAIO: Second.

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

Any opposed? (no response)

Any abstentions?

MS. STEVENS: I abstain.

MR. SHAUGHNESSY: Thank you very much.

No. 2 under Old Business: RPR 98-09, Block 36302, City of Trenton, Mercer County.

Treasury requests approval to lease a portion of the water tower, located at the Trenton Psychiatric Hospital, to AT&T Wireless PCS of Philadelphia LLC, for the operation and maintenance of a cellular antenna. AT&T Wireless is the current tenant of the space; however, the current lease and the renewals have expired, and a new lease must be approved.

This matter was heard, but subsequently tabled, at the September 23, 2019 State House Commission meeting because the Commission is requesting the Department of the Treasury provide an inventory of all State cell towers prior to making its decision.

It turns out that, upon research, Treasury's lease rates fall within the range between both DOT and DEP lease rates. As a result, AT&T Wireless wishes to renew its application for approval at the same reduced rental offered at the last Commission mission.

The terms are as follows: The lease will be for a term of 5 years, commencing on August 25, 2020, at \$35,000 annually, with three successive 5-year renewal options, with a 3 percent annual rent increase during each renewal option.

That's the matter for consideration.

Do any members have any questions or comments?

MR. BRAZ: Yes, I'd just like to thank Treasury for doing their due diligence in confirming that this is an accurate lease payment. And I would like to thank AT&T for their patience as we confirm this.

So thank you.

MR. SHAUGHNESSY: Thank you, Mr. Chair.

Anybody else from the Commission want to be heard? (no response)

Hearing none, is there any public comment on this matter before we move it forward? (no response)

Hearing none, motion please.

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Second?

MS. BRENNAN: Second.

MR. SHAUGHNESSY: Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Associate Director Stevens.

MS. STEVENS: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty is not present yet.

Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: Okay, that matter is approved.

Actually, I'll just mention quickly, No. 3 and No. 4 are similarly related leasing proposals at Ancora Psychiatric; but we will deal with them quickly, separately.

The first one is No. 3, RPR 09-03, Block 6801, part of Lot 1, Winslow Township.

Treasury, on behalf of the Department of Human Services, requests approval to lease six single-family dwellings, located on the grounds of Ancora Psychiatric Hospital, to Oaks Integrated Care, a nonprofit agency with a service contract with the Department of Human Services.

Oaks was awarded the service contract with the Division of Mental Health Services on a Request for Proposal. It is the current tenant;

the rent is \$1 per year, and the lease and all renewals have expired and a new lease must be approved.

The lease will be for a term of 3 years commencing as of July 1, 2019, with two, 3-year renewal options for \$1 per year. The lessee -- that's Oaks -- will be required to pay for utilities, services, and maintenance costs arising from their occupancy.

Any questions from the members on this one? (no response)

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

MS. BRENNAN: Bob?

MR. SHAUGHNESSY: Yes.

MS. BRENNAN: I just want to ask, as we discussed in a prior meeting, are we routinely running tax clearance certificates on entities?

MR. SHAUGHNESSY: Well, that's a good point.

I don't know on nonprofit entities, too. But if that's desired on nonprofit entities-- I think we have begun to ensure that on private, for-profit entities.

MS. BRENNAN: Okay.

MR. SHAUGHNESSY: But that's something we can continue to further discuss.

MS. BRENNAN: Okay, that's fine.

MR. SHAUGHNESSY: Absolutely; thank you.

No. 4-- Oh, I didn't take a vote on that; pardon me.

Motion?

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Second?

ASSEMBLYMAN DiMAIO: Second.

MR. SHAUGHNESSY: Motion and second.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Associate Director Stevens.

MS. STEVENS: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty. (no response)

Okay, I'll defer until he returns.

Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: Okay, that matter is approved.

On to No. 4, which is the similar one.

RPR 09-11, Block 6801, part of Lot 1, Winslow Township,
Camden County.

Treasury, on behalf of the Department of Human Services, requests approval to lease 1,800 square feet of office space at Ancora Hospital to Oaks Integrated Care, a nonprofit agency with a service contract with the Department of Human Services. This agency was awarded the service contract with the Division of Mental Health Services based upon a Request for Proposal.

The use of office space for administrative functions will support the agency's residential programs at Ancora. Again, Oaks is the current

tenant; however the current \$1 per year lease and all renewal options are expiring and a new lease must be approved.

This lease, too, will be for a term of 3 years, commencing on July 1, 2019, with two, 3-year renewal options for \$1 per year. The lessee will be required to pay for utilities, services, and maintenance costs arising from their occupancy.

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

Hearing none, any member of the public want to be heard about this action? (no response)

Hearing none, may I have a motion?

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Second?

MS. BRENNAN: Second.

MR. SHAUGHNESSY: Motion and second.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Associate Director Stevens.

MS. STEVENS: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved. Thank you very much.

Moving on to No. 5 on the agenda -- this is project Route 24 Freeway, Section 9, Parcels as specified in our public agenda, blocks adjoining multiple, lot adjoining multiple, Township of Hanover, Morris County.

New Jersey DOT, Division of Right-of-Way, on behalf of Hanover Township, requested approval to convey 63.956 +/- acres of the former Route 24 Freeway, which are no longer needed by the Department for transportation purposes, to Hanover Township for general public use without a conservation restriction.

This matter was originally presented and approved at the September 23, 2019, State House Commission as a direct sale to Hanover Township for public use, and included a conservation restriction. This change will enable Hanover Township to consider other potential uses for parts of the property that are not conservation.

Terms: The purchase price remains the same at \$473,905, which is based upon the original acquisition cost of the underlying land.

Do any members of the Commission have any questions or comments about this?

SENATOR SMITH: Yes, I have some questions.

MR. SHAUGHNESSY: Okay, Senator Smith.

Again, thanks for participating by phone.

What are they, sir?

SENATOR SMITH: When was the property purchased by DOT, and from whom; when did the conservation easement restriction become imposed on the property?

MR. SHAUGHNESSY: Okay, I understand your two questions.

Could someone please come up and identify themselves, and please answer the Senator's questions.

DAVID KOOK: My name is David Kook. I'm with the Department of Transportation, Manager of Technical Support for the Right-of-Way Division.

This is a very long stretch of road through the Township, and I can't specifically identify each parcel. They were bought many, many years ago, and the road was never built. So unfortunately, I can't share that particular information with you; that wasn't something that was researched.

As to the conservation restrictions -- we typically, as we sell land for public use, identify what that is with the requester, and we make a specific reservation in the deed for whatever that use is. At the time -- and every township was talking about having a trail and a park -- and it's my understanding that's still the direction that they are going. However, because they are going to be using Green Acres funding to purchase this, if we put a conservation restriction on it from DOT, then that property is restricted before Green Acres comes to pay for it. So instead of being able to get a grant based on that property unrestricted -- as normally they would -- DEP Green Acres is going to have to come back with an appraisal of the value of the property restricted, which there is going to be substantially less grant money available.

The DOT still wanted to address preserving this property, so we have in the agreement two classes: One that addresses with the Township that they will be purchasing it with Green Acres funds, and that it will be

Green Acres restricted. That's kind of the normal course of business for Green Acres, but we're acknowledging it for our benefit as well.

And the second clause we have in there is that both the State House and DOT's Commissioner have to weigh in on any disposal that they want to do on the property. So that's not restricting, in the sense that its value is reduced, as far as Green Acres was concerned. We worked that language out with Green Acres. And it will probably be a little more protected when it's actually purchased with a Green Acres' grant, because it's statutory authority, rather than just the restriction we have in the deed.

MR. SHAUGHNESSY: Thank you, Mr. Kook.

SENATOR SMITH: So I'm confused.

When we purchased this -- and I guess paid \$473,905, which is the listed purchase price -- we purchased it with State money.

MR. KOOK: Yes.

SENATOR SMITH: And now we're saying that the Green Acres program is going to-- Did you say the Green Acres program was going to provide the money for Hanover Township to buy it back from us?

MR. KOOK: I'm going to defer to the Green Acres representative, Judeth Yeany.

MR. SHAUGHNESSY: Ms. Yeany, before we begin, I just want to note that both Senator Cardinale and Assemblyman Moriarty have joined us. So I think we're at fuller staff, or full staff at this point.

So thank you both, and I know it's been difficult -- (indiscernible) rain out there today.

I'm sorry, go ahead.

J U D E T H P I C C I N I N I Y E A N Y, Esq.: My name is Judeth Yeany; I'm with the DEP's Green Acres Program.

Hanover Township has applied for Green Acres funding to purchase this property from DOT.

My understanding of the DOT surplus property statute is that they are allowed to do a direct sale to a municipality for general public uses, not specific to Open Space but that DOT does expect to be reimbursed for its acquisition costs which, in this case, I guess, is the \$473,000-and-change.

So Hanover Township either has to bring its own public money to the table or, in this case, if it's willing to restrict the property on the back end of the transaction, it would be eligible for Green Acres funds to purchase the property from DOT.

So that's essentially what we're trying to do here -- is DOT was not required to restrict the property for Open Space, so we're trying to move the restriction from the front end of the transaction to the back end of the transaction after they take our money.

SENATOR SMITH: So, again, I'm still confused.

Why-- It's already deed restricted for conservation purposes.

MS. YEANY: It is not already restricted.

SENATOR SMITH: Oh, it's not?

MS. YEANY: No; this is, right now, highway right-of-way, completely unrestricted; that if DOT-- My understanding is that if they wanted to auction it off, they could.

MR. KOOK: In theory we could. The problem is that most of the stretches of this former roadway are not independently developable. So

then the statute provides for direct sale to the municipality or to a joining owners, where we would be losing the benefit of that park.

Now, I should also note that under the statute it allows us to sell directly. We have to get, as a minimum, the acquisition price we paid.

SENATOR SMITH: So did the statute mandate that the price would be what we previously paid?

MR. KOOK: At a minimum, yes.

SENATOR SMITH: Or is it that it just permits us to sell it for that price?

MR. KOOK: That's set as a minimum.

SENATOR SMITH: Okay.

MR. KOOK: In some cases, that's--

SENATOR SMITH: Have we done an appraisal of the property?

MR. KOOK: We did not.

SENATOR SMITH: So if this was going to be -- so when we bought it for \$473,000, was that with the understanding it was going to be deed restricted? Or was that the fair market value at the time of purchase?

MR. KOOK: That was the price we paid to individual owners to acquire and assemble a road.

SENATOR SMITH: Okay; so you think it was fair market value at that time?

MR. KOOK: Yes, sir.

SENATOR SMITH: Okay. And there is no deed restriction, at this point, for it to be conserved? Right now, anything -- whatever the town zones for that property theoretically could be done on that property?

MR. KOOK: That's correct.

SENATOR SMITH: Okay, all right.

Some of the correspondence that we received from some people seems to indicate that it was already deed restricted for Open Space. If so, I guess if you're telling me that the deed restriction is not there, you know, I guess it comes down to what Hanover Township's leaders -- elected officials want to do with the property.

But I still have a little question about Green Acres money being used to buy property that we currently have in our possession. But if it's not deed restricted I can kind of understand. Green Acres money should not be used unless it was going to be deed restricted, correct?

MS. YEANY: That's correct.

SENATOR SMITH: Okay.

MS. YEANY: And Mr. Kook explained that the contract of sale that they either already executed, or are negotiating with the Township, presumes that Green Acres will come into the transaction, and there are contingencies.

SENATOR SMITH: Suppose Green Acres doesn't and sells them back. Suppose Green Acres says, "We're not interested in the property"? What happens then?

MS. YEANY: Well, I don't think it's a matter of us saying, "We're not interested." We know the Township's interested. They applied for our funding, and I actually think this probably would have closed already if we hadn't hit this issue of determining that it might technically already be restricted as a result of the September approval; as a result of DOT coming here and saying, "We will impose a conservation restriction before we sell it." That messed things up, as far as our funding process. But I think if we hadn't

had to work through that issue, the Township would have accepted our money already and we'd be further along with this.

SENATOR SMITH: Is there any advantage to -- since we currently have fee ownership of the property -- just telling them DOT put the conservation easement on the property? Or is the thinking here that if you put it in the Town's hands and they deed restrict it, that they would then can be responsible for maintenance.

MS. YEANY: Yes, I believe DOT wants no part of the day-to-day management of the property, and the Township is willing to take that on.

SENATOR SMITH: And at this point everybody is under the belief that the town officials want to see it deed restricted for conservation purposes?

MS. YEANY: I believe they understand that a restriction or future use being limited to recreation and conservation purposes, consistent with the Green Acres statutes, would be a condition of our funding.

SENATOR SMITH: Okay.

I have no further questions at this moment.

MR. BRAZ: Thank you, Senator.

So Ms. Yeany, just to put a point on it.

Once -- if the State House Commission approves this conveyance, Green Acres is ready to move forward with the Township of Hanover for the express purpose of preserving this this specific land?

MS. YEANY: Yes. I don't know exactly where we are in our process, but absolutely.

MR. BRAZ: But they have already reached out to Green Acres, you've already started the process. Obviously, it needs to go through--

MS. YEANY: Yes, the funding has been approved and, I believe, appropriated for that purpose.

MR. BRAZ: So the only thing that is holding it up is the State House Commission approval at the moment, theoretically. It hasn't been finally approved; I understand that.

MS. YEANY: Yes, you're not the only thing holding up the transaction; but yes.

MR. BRAZ: Okay; thank you.

MS. YEANY: You're welcome.

MR. SHAUGHNESSY: Do any other members of the State House Commission have any other questions at this point? (no response)

Are there any members of the public who want to be heard and testify as to this matter? (no response)

Seeing none, hearing none, then I guess-- Is there a motion?

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Thank you; second?

ASSEMBLYMAN DiMAIO: Second.

MR. SHAUGHNESSY: Motion and second; I'll call the roll.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Associate Director Stevens.

MS. STEVENS: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

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

We're now moving on to Old Business No. 6.

This is the project -- Seaside Heights Borough, Block 99.02, part of Lots 1 and 1.01, Seaside Heights, Ocean County.

On June 30, 2016, the Commission approved the DEP's request to allow the Borough of Seaside Heights to transfer approximately 1.37 +/- acres of Borough-owned parkland to the adjacent property owner, the Casino Pier amusement pier, in exchange for ownership of the historic Dentzel-Loof Carousel and additional compensation.

Part of the Commission's approval required that the Borough house the carousel in a sheltered location no later than June 30, 2019.

At the May 9, 2019, State House Commission meeting, the Borough requested an extension of time until June 30, 2021, to arrange for funding and house the carousel. The Commission reviewed the Borough's request and agreed only to extend the approval until the end of 2019, and instructed the Borough to appear before the Commission on or before

December 31, 2019, with a more detailed plan for financing and constructing the building to house the carousel.

And I will note that this is the first meeting that occurred after December 31, 2019.

Borough Counsel has advised that Seaside Heights passed a municipal bond ordinance in the amount of \$2,850,000, and has been approved by the Garden State Preservation Trust to receive a \$750,000 Green Acres matching grant. Borough Counsel has also advised that a CAFRA permit application was submitted and deemed complete, and that the Borough has now complied with all the other outstanding approval conditions, including those pertaining to the filing of a National Register nomination form and the assumption of ownership of the carousel.

Finally the terms: The Borough is still seeking a further extension until June 30, 2021. The NJDEP does not object to this request.

That is the matter under review and consideration.

Do any members have any questions, comments, concerns about this matter?

SENATOR SMITH: Yes, I do.

MR. SHAUGHNESSY: Okay; first, Senator Smith.

SENATOR SMITH: All right; so it appears that, according to a description of the agenda item, that significant progress has been made toward achieving the mutual goals of the State of New Jersey and the Borough of Seaside Heights.

But I think a year-and-a-half is too long of an extension; and I mean that in the sense that I think this is something we have to monitor. You know, this has taken a lot longer than it was supposed to take. This is,

by the way, one of my few votes in the Legislature where I questioned my own judgment when I voted in favor of this.

But I'm thrilled to see progress being made. I would like to throw on the table that instead of providing an 18-month extension, we provide a nine-month extension. So they come back and report to us where they are in the process, how much progress is being made, so that the State House Commission makes sure that we are protecting the interests of the citizens of the State in getting this completed.

MR. SHAUGHNESSY: Okay; thank you, Senator Smith.

Do any other members of the Commission have any comments or reaction to the Senator's proposal?

ASSEMBLYMAN DiMAIO: I guess my only question is, if we do limit it to nine months, will that affect any of the approvals they need? Or we're just, in a sense -- the senators having you come back and give us an update we can re-extend?

MR. SHAUGHNESSY: Okay.

LAUREN R. STAIGER, Esq.: I'm here on behalf of the Borough. My name is Lauren Staiger; I'm the attorney for the Borough.

I can say that I don't believe that's going to cause any problems. The Borough is still committed to moving forward, and the only State approval we're waiting on right now is from DEP, which the comment period just recently -- the public comment recently closed. So I have Jen Gorini here, who is the engineer for PS&S on behalf of the Borough, and she can answer any questions as to the application.

But I believe that in March we're expecting to hear--

JENNIFER GORINI: March 16 is their decision deadline.

MS. STAIGER: Right; so that's really the only outstanding higher level approval that we're waiting on. Everything else is really kind of in the Borough's hands in regards to moving forward.

The other outstanding question is-- I'm sure you're aware of the litigation regarding the funding. Because we did receive two \$750,000 grant approvals, so there is litigation regarding that. However, there are two things to keep in mind. The first is, to the extent the argument is that the \$750,000 grants are being used to make the compensation whole, that's a moot point because it's already been litigated. And also, the Borough is willing to move forward, regardless of whether or not they do actually get the \$750,000. The way the grant works is, we have to put the money out anyway; so we'll be moving forward with everything, and that wouldn't delay the process either.

MR. SHAUGHNESSY: Okay, thank you very much; we appreciate that.

Any other questions from members?

MR. BRAZ: Yes, Mr. Shaughnessy--

MR. SHAUGHNESSY: Yes, Chair.

MR. BRAZ: We appreciate the work that you've put into this, and also the responsiveness to the Commission.

But per Senator Smith's suggestion, is there any issue with coming back in nine months to give us an update on the project then?

MS. STAIGER: Yes, we understand the concern here. So we have no problem meeting, or submitting something, or both -- whatever you would prefer. We can give you an update.

MR. BRAZ: All right. From my perspective, I concur with Senator Smith. I believe a nine-month check-in would be helpful.

MR. SHAUGHNESSY: May I ask, when is that? Nine months -- that's, I guess, what I'm trying to figure out. Originally, I guess, June 30, 2021; we drop it back until September.

MR. BRAZ: I would say at the fall meeting of the State House Commission.

Senator Smith, does that timeline work for you -- our fall meeting?

SENATOR SMITH: And the timeline you're suggesting, Mr. Braz is--

MR. BRAZ: Nine months -- it would be the--

SENATOR SMITH: Nine months? Yes, nine months is terrific.

MR. BRAZ: Yes, it would be the fall meeting of the State House Commission.

SENATOR SMITH: That would be fabulous.

MR. SHAUGHNESSY: Thank you for that clarification.

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

Are there any--

MS. BRENNAN: Excuse me, Bob.

Are there -- do you have a time frame on this -- appearing at court and the judicial process?

MS. STAIGER: We can't say for certain, but-- So what happened was, it was filed a few months ago and it was dismissed; because at that point in time, Treasury had not encumbered the funds. Once they were

available, it was refiled at the end of last month. So we actually haven't even had to respond yet. Six months to a year is probably when that would be completed.

MR. SHAUGHNESSY: Thank you.

MR. BRAZ: I would also ask one final point.

If you can please keep us posted on the DEP's decision. I know you're expecting March 16; if you can please relay that information to the State House Commission, it would be appreciated.

MS. STAIGER: Will do.

MR. SHAUGHNESSY: Okay.

Are there any members of the public that would like to be heard?

Mr. Moss.

ROBERT MOSS: Thank you.

MR. SHAUGHNESSY: Please identify yourself, though, for the record.

MR. MOSS: Yes, hi.

My name is Robert Moss; I'm from Bloomfield.

I am the plaintiff in the litigation that was mentioned.

I signed up that I didn't want to speak; but I heard something very confusing.

Counsel for Seaside Heights, I guess, the young lady who was just here, said something had already been litigated -- and I don't know if I'm allowed to directly ask a question, but I'll leave that with the Commission -- I don't know what has already been litigated. Everything else she said about the litigation is accurate -- that it was unripe, and then it was filed again. I don't know what was already litigated.

So I'll leave that with the Commission.

MR. BRAZ: Thank you, sir.

MR. SHAUGHNESSY: Good morning.

Please identify yourself for the record; thank you.

A M Y H A N S E N: Good morning.

I'm Amy Hansen with New Jersey Conservation Foundation.

Thank you for the opportunity to speak today.

We objected to the original diversion of public property -- the beach -- because we were concerned that the exchange was not adequate compensation for such a loss of a public asset, and it also set a bad precedent allowing the loss of public beach property, which is one of New Jersey's greatest public assets.

So we urge the State House Commission to require additional funds from the Borough to compensate for the public's lost benefit of the use of the area since June 30, 2019, from each extension request. And going forward. If the Commission allows for their extensions, additional compensation should be required.

We're just concerned that without a risk of penalty, the Borough and other towns and developers could see this as a green light for future diversions of public beach property, particularly given that an additional \$750,000 in Green Acres funding is slated to go toward the carousel's housing. It's critically important to do everything we can to uphold the protection of our natural resources, and beach -- public beach that taxpayers have invested in for decades.

Thank you.

MR. SHAUGHNESSY: Thank you, Ms. Hansen.

MR. BRAZ: Thank you.

MR. SHAUGHNESSY: Any other member of the public wish to be heard on this matter? (no response)

Seeing none, then, I guess I'll call for a motion.

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Okay, motion--

Go ahead, Mr. Counselor.

MR. KOTLER (Commission Counsel): Mr. Chair, is that with--

MR. BRAZ: Sorry, that is with the nine-month review.

MR. KOTLER: Nine months; and that the Borough would report back to us--

MR. BRAZ: After the DEP renders its decision.

MR. KOTLER: Correct; okay.

MS. BRENNAN: But to clarify, we're approving and requiring reporting? Or we are asking for additional clarification in nine months, and then we're approving?

MR. KOTLER: Well, it's an extension for nine months.

MS. BRENNAN: An extension for nine months.

MR. KOTLER: Yes, with the reporting requirement in the interim.

MR. SHAUGHNESSY: Okay; is there a second?

ASSEMBLYMAN DiMAIO: Second.

MR. SHAUGHNESSY: Thank you, Assemblyman.

I'll call the roll, based upon that motion.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Associate Director Stevens.

MS. STEVENS: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved.

MR. KOTLER: Let me clarify.

I said nine months; I assume you meant the fall meeting.

MR. BRAZ: The fall meeting.

MR. KOTLER: Correct; okay.

MR. SHAUGHNESSY: Thank you.

We're moving on now to New Business.

This is No. 7 on the agenda. It's with regard to project RPR 15-08, Ramapo College of New Jersey, Block 135, Lot 62, Township of Mahwah, Bergen County.

The State of New Jersey, Department of the Treasury, requests approval to transfer 18.60 +/- acres of vacant land within Ramapo College of New Jersey that has been separated from the remainder of the campus by an extension of Route 287, which has been declared surplus to the State's needs.

The Department of the Treasury, on behalf of Ramapo College, recommends a direct sale to Ramapo for \$1. Ramapo will then simultaneously sell the property directly to a third party, CF MARMOSET TEB LLC, a Delaware limited liability company, for the negotiated price of \$1,325,000. The appraised value of the property is \$1,250,000.

Upon this closing, all proceeds from the transaction will be delivered to the State, less any transaction fees, including but not limited to legal fees and survey costs expended by Ramapo for the conveyance.

This transaction shall also be subject to legislative approval.

So that's matter under consideration.

Do any members have any comments or questions with regard to this?

SENATOR SMITH: Yes, I have a question.

MR. SHAUGHNESSY: Okay; Senator Smith on the phone.

Thank you.

SENATOR SMITH: I'm sorry to be the nitpicker today, but why are we doing this indirect process, where it's going to Ramapo, then being sold to a developer, and then we're receiving the proceeds, minus any costs associated with the transactions? Why not just directly convey to the developer?

MR. SHAUGHNESSY: Why not directly convey to a developer?

ASSEMBLYMAN MORIARTY: That was my question as well; and I have other questions. But that just -- I don't understand the process of why that is taking place.

MR. KOTLER: Well, we have done this process before with Totowa a few years ago. And it is more effective for the State to convey for

the \$1, and then let the University deal with extensive negotiations with the ultimate third-party purchaser. And what we did with Totowa, regarding the former North Jersey Developmental Center, was, we were all in the room at the same time so that the proceed, that the State was going to receive, we immediately received it. But since Ramapo is, in fact, on the ground and has the most knowledge about the property, it was our thought, in both of those instances, that it made sense to do this two-step process.

MR. BRAZ: I'm sorry, Assemblyman; please.

ASSEMBLYMAN MORIARTY: Did I see an earlier version of this that had us--

MR. SHAUGHNESSY: Yes, you did.

ASSEMBLYMAN MORIARTY: -- selling it to them for \$1, and then they were going to sell it to this developer, and then split the money with us? So it's just curious because, at one stage we were going to give property for \$1 to Ramapo, and then they were going to kindly give us half of what they made on it, which sounded very strange.

And then the other question is, why would a developer pay more than what something is appraised at, when they were probably not a ton of people beating down the doors for this piece of property?

So I'm just asking the obvious questions, along with the Senator Smith.

MICHAEL A. TRIPOLDI, Esq.: Mr. Chair, and members of Commission.

Michael Tripoldi, General Counsel for Ramapo College of New Jersey.

We concur with DAG Kotler's advice on this.

This is a very long-term situation for the College. Basically, you're looking at highlands and swamplands over there that was split by Route 287. There are four adjoining property owners. and we attached a map with the application. So you can see that this isn't very valuable property for the State. It's been sitting for over 31 years.

There was a real estate company that is actually doing a development in the Township of Mahwah, and the College was approached by this developer, so we started the process with the negotiations, with the understanding that we had to get approval from the State House Commission.

In working with DAG Kotler, we came up with this mechanism for the best way of disposing of the property. We have to strike while the iron's hot, or it's going to be another 31 years before we have another buyer here. There are only four potential adjoining property owners, and now we have a very interested buyer who's constructing a fulfillment center of a very large company -- unnamed company, at this point -- and it's, I think, a win-win for the State and for the Township of Mahwah that we could get this property back on the tax rolls.

So the College is doing a heavy lift here in doing the transaction. We got the buyer, a willing buyer, and we're willing to see the transaction through, in accordance with the agenda item, as stipulated.

SENATOR SMITH: Do you have a written contract with the developer, a signed contract?

MR. TRIPOLDI: Senator, we're in the process of finalizing that, and time is of the essence.

SENATOR SMITH: What do you anticipate to be the costs that are referred to in the description; namely, the transaction fees including the (indiscernible) the legal fees, the survey costs, extended by Ramapo for the conveyance? And will there also be realty transfer tax that is going to have to be paid?

MR. TRIPOLDI: Yes, there will be-- Yes, costs of sale; and they will be detailed and provided to the State pursuant to a closing statement.

SENATOR SMITH: Do you have any idea what they are, what the costs are, or what they're anticipated to be?

MR. TRIPOLDI: I have no idea at this point, Senator.

SENATOR SMITH: Okay.

MR. TRIPOLDI: It's not going to be anything, you know, unusual from any other commercial transaction. We don't anticipate that.

SENATOR SMITH: Okay.

ASSEMBLYMAN MORIARTY: I'm curious -- what is the benefit to the College, that you would spend all this energy and your legal expertise to get this done? How does this benefit the College?

MR. TRIPOLDI: Well, first of all, it adds to the property. I indicated it's not feasible as to our State plan, our master plan, master facilities plan. And then we'll be working separately with the State, regarding any potential capital needs that the College has.

I think you have all the materials in the package, and it details the history of this dating back to 1988. So I think all the material explains the College's needs and the history of this process.

ASSEMBLYMAN MORIARTY: So to use a phrase that's familiar these days -- is there some kind of *quid pro quo* between the College and the Administration that -- "We're going to help you facilitate this money, and we hope this money somehow comes back to us"?

MR. TRIPOLDI: I don't think it's *quid pro quo*. We honor the State processings, and we will follow appropriate State processings.

ASSEMBLYMAN MORIARTY: Yes, but, I mean, are you-- I go back to my original-- And there's nothing wrong with that. Are you trying to sell property, and help the State sell properties, and hopefully, you're going to get some additional funding in the future?

MR. TRIPOLDI: Yes.

ASSEMBLYMAN MORIARTY: Thank you.

MR. TRIPOLDI: The materials were submitted, yes.

ASSEMBLYMAN MORIARTY: Thank you for the honesty.

MR. BRAZ: Like every other university, they have the ability to come to State Administration, with (indiscernible) of the Legislature, to determine what capital needs they may have, based on any excess profits -- or not excess profits -- excess revenue that comes into the State.

ASSEMBLYMAN MORIARTY: Yes, I was just trying to peel back the onion and understand why this was originally -- "We're going to sell the property, and we'll each get half." Now it comes back to the State -- which is more appropriate, in my mind. I'm just trying to figure out what everyone's motivation is, because on the face of it, it looks a little strange.

MR. BRAZ: And that was our concern as well. We wanted to make sure that all the proceeds reverted back to the State, which is the typical process.

ASSEMBLYMAN MORIARTY: Thank you for clarifying.

MR. TRIPOLDI: And that was our understanding too, Assemblyman. We want to make sure we follow the right processes.

MS. BRENNAN: And if I could just jump in.

We wanted to make sure that the two processes were separated, and that the proceeds come to Treasury, as they should. And that if there were any other discussions about needs, that that was handled separately. We wanted to separate them.

ASSEMBLYMAN MORIARTY: Which I think is appropriate.

MR. BRAZ: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: We still have this two-step process. Is there some sort of tax benefit to the purchaser? Should we buy it from the College versus directly from the State?

MR. TRIPOLDI: No, Assemblyman--

ASSEMBLYMAN DiMAIO: I'm losing -- you're losing me on the two-step process. We own it; the State owns it.

MR. TRIPOLDI: Correct.

ASSEMBLYMAN DiMAIO: We're going to sell it to the College, and we're going to get the money anyway.

MR. KOTLER: If I may.

As I understand it -- and Mr. Tripoldi, you can correct me -- this process has been proceeding for a while already between the College and the third party. They've had extensive discussions and negotiations, as happens in all real estate transactions, about entry into the property, and contingencies, and what have you. So that's already baked into the cake, regardless.

So for the State to start over with this third party and get into the weeds on this stuff doesn't make any sense. And it's not the process that we've followed in the past, as I indicated earlier.

MR. TRIPOLDI: Again, I agree with DAG Kotler's advice on this; and we've been at this since July. So this is a step in the process, and we want to finalize the contract and get the money to the State as soon as we can.

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

Is there anyone from the public who would like to testify or comment on this matter? (no response)

Hearing none then, may I have a motion?

MR. BRAZ: So moved.

SENATOR CARDINALE: So moved.

ASSEMBLYMAN DiMAIO: So moved.

MR. SHAUGHNESSY: Motion by the Chair and the Assemblyman, with Senator Cardinale.

ASSEMBLYMAN DiMAIO: Second.

MR. SHAUGHNESSY: Thank you, Senator.

I'll call the roll.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Associate Director Stevens.

MS. STEVENS: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved; that's No. 7.

We are now moving on to No. 8, under New Business.

Project: RPR 20-04, Trenton Office Complex, Block 202, part of Lot 6, Trenton, Mercer County.

Treasury requests approval to lease 2,700 +/-square feet of retail space, located at the Trenton Office Complex, to A-100 Food LLC, to be used for food services, more specifically a Blimpies.

The lease will be for a term of five years. The annual rent for year one will be \$54,000, with a 2.5 percent annual increase. The other rents are as mentioned in the public agenda.

The lessee will be responsible for all utilities supplied to the leased premises, as well as generally all minor repairs and preventative maintenance.

And I will note that in your members' binders should be a market study, dated December 31, 2019, concerning the market rental range. And I understand that these rents are within that market study rental range.

That's a matter for consideration.

Do any members have any questions or concerns about this leasing manner? (no response)

Hearing none, do any members of the public want to be heard in this matter? (no response)

Hearing none, may I have a motion?

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Thank you; second?

SENATOR CARDINALE: Second.

MR. SHAUGHNESSY: Thank you.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Associate Director Stevens.

MS. STEVENS: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved.

Moving on to No. 9.

RPR 20-05, 33 Kilmer Road, Block 3, part of Lot 1, Edison Township, Middlesex County.

Treasury, on behalf of the New Jersey Motor Vehicle Commission, requests approval to lease approximately 0.40 +/- acres of land, located at 33 Kilmer Road, to 45 Kilmer Inc. for use as additional parking. 45 Kilmer Inc., the adjacent property owner, is currently under contract with the United States Transportation Command, under the Department of Defense, to temporarily store and/or prepare vehicles for shipment overseas for our U.S. government and members of our armed forces.

The lease term will be for 10 years, with two, 5-year renewal options. Note: Either party can cancel the lease upon six months prior notice.

The rent for the initial 10-year term will be \$15,000 for years one through five. The annual rent for years six through ten will be \$16,200. The annual rent for the first 5-year renewal option will be \$17,400, and the rent for the second 5-year renewal option will be \$18,000.

That's the matter up for consideration.

Do any members have any questions or concerns? (no response)

Hearing none, any members of the public wish to be heard on this matter? (no response)

None as well.

May I have a motion?

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Motion; second?

SENATOR CARDINALE: Second.

MR. SHAUGHNESSY: Motion and second.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Associate Director Stevens.

MS. STEVENS: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved.

Now we're changing, and going on to DOT requests; New Business, DOT requests.

As I understand it, Nos. 10 through 12 are fairly similar, substantially similar requests, including land exchanges.

Route 35, Section 8, Parcels VX22B, VX23B, VX25B, Block 21, Lot 19, Township of Middletown, Monmouth County.

DOT, Division of Right of Way, on behalf of developer, Village 35 L.P., is requesting approval to exchange Parcels VX22B, VX23B, and VX25B, Route 35, containing approximately 0.504 +/- acres, for adjoining properties Parcels 332A, E332B, 332C, and 333, containing approximately 2.212 +/- acres.

In addition, the developer proposes a new ramp -- Jughandle A-Parcel 332A -- which will be conveyed to the DOT and service Kings Highway East and Route 35. Parcels E332B, 332C, and 333 will also be conveyed to DOT to align Route 35 with the new Shoppes Drive and Woodland Drive ramp system.

The developer, at its own cost and expense, will remove the original ramp and construct the Ramp A Jughandle and new Shoppes Drive and Woodland Drive.

This exchange will be for \$1, based upon the value to the citizens of the State New Jersey of an improved traffic scenario, and because there is a larger area of land being given to the DOT versus the area of the existing ramp being transferred to the adjoining property owner.

So that's No. 10

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

Hearing none, any members of the public wish to testify or be heard on this matter? (no response)

None as well; then I'll ask for a motion.

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Motion; second?

MS. BRENNAN: Second.

MR. SHAUGHNESSY: Thank you.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Associate Director Stevens.

MS. STEVENS: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: No. 10 is approved

On to a similar type matter, No. 11.

Project: Route 73, Section 3, Parcels VXR8A, VX8B (*sic*), Block not applicable, lot not applicable, Township of Mount Laurel, Burlington County.

DOT, on behalf of the developer of an adjacent property being developed by Walmart, is requesting approval to exchange the above-noted parcels on Route 73, Section 3 project, containing approximately 37,115 +/- square feet, for Parcels 137A, 137B, E137C, and 137D, on a portion of Lot 1.05 in Block 1311, containing approximately 37,811 +/- square feet.

The VXR8A and VXR8B (*sic*) parcels reflect a small existing ramp acquired by DOT more than 10 years ago. The ramp is substandard in size and is impeding the current traffic flow. The developer has proposed a replacement ramp that provides a larger jughandle system which will allow for more traffic storage and a safe interaction with Route 73. The developer

will remove the original ramp at its own cost and expense, and construct the new ramp.

The exchange will be for \$1, based upon the value to the citizens of the State of New Jersey of an improved traffic, and because there is also a larger area being conveyed to the DOT versus the area that's being transferred to the adjoining property owner.

Again, any comments or questions on this matter? (no response)

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

"No" and "no"; may I have a motion, please?

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Second?

ASSEMBLYMAN DiMAIO: Second.

MR. SHAUGHNESSY: Motion and second; thank you.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Associate Director Stevens.

MS. STEVENS: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved.

We're now on No. 12, the last of these similar projects.

Project: Route 195, Section 3, Parcel V3R4A2, Township of Jackson, Ocean County.

DOT, on behalf of the developer, Cardinale & Jackson Crossing #2, is requesting approval to exchange Parcel V3R4A2 on Route 537, containing approximately 0.634 +/- acres, for the adjoining property, Parcel 1, Block 3001, Lots 2 and 3, currently owned by Great Adventure, containing approximately 2.246 +/- acres of land.

The V3R4A2 parcel reflects a small existing ramp acquired by DOT more than 10 years ago. Again, the ramp is substandard in size and is an impediment to current traffic flow. The developer has proposed a replacement ramp that provides a larger jughandle on Parcel 1, which will allow for more traffic storage and a safer interaction with Route 537. The exchange will also allow for development to support the local municipality.

This request has support from both Monmouth County and Ocean County. The developer will remove the existing ramp and construct the replacement ramp at its own cost and expense.

Again, the exchange will be for \$1, based upon the value to the citizens of the State of New Jersey for an improved traffic scenario, and a larger area of land being conveyed to DOT versus the land being transferred to the adjoining property owner.

Any members of the Commission want to be heard on this matter?

SENATOR CARDINALE: I--

MR. SHAUGHNESSY: Yes, Senator Cardinale; thank you.

SENATOR CARDINALE: I just want to clarify that the *Cardinale* had nothing to do with me.

MR. BRAZ: Thank you, Senator.

MR. SHAUGHNESSY: I was going to ask that, but thank you for making the note and clarification.

Besides, that, any other members have any comments or questions? (no response)

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

None; okay.

May I have a motion?

MR. BRAZ: So moved.

ASSEMBLYMAN DiMAIO: Second

MR. SHAUGHNESSY: Thank you; motion and second.
Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Associate Director Stevens.

MS. STEVENS: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved.

Now we're going on to DEP requests.

No. 13, Campbell Park, Block 89, part of Lot 16, Lakewood, Ocean County.

DEP, on behalf of the Township of Lakewood, requests approval to allow the disposal of approximately 0.016 +/- acres of Green Acres-encumbered unfunded parkland to the DOT for improvements to U.S. Route 9 in the Township of Lakewood.

The disposal is required for roadway and intersection improvements proposed by DOT along a 6.87-mile section of U.S. Route 9.

To compensate for the proposed disposal, DOT will provide \$30,897 to the Green Acres program for deposit in the Garden State Preservation Trust Fund, to be used for future acquisition of open space through the Green Acres Local/Nonprofit Program.

That's the matter up for consideration.

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

Hearing none, any members of the public wish to be heard on this matter? (no response)

None as well; motion?

MR. BRAZ: So moved.

SENATOR CARDINALE: Second.

MR. SHAUGHNESSY: Thank you.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Associate Director Stevens.

MS. STEVENS: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved.

On to No. 14, which I've noted previously is being held at this meeting.

We are now on to a different section of the meeting.

So at this point, we're moving on to the Division of Pensions and Benefits. And I'm going to ask for a motion to adjourn as the State House Commission and convene as the Judicial Retirement System Board of Trustees.

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Moved; second?

ASSEMBLYMAN DiMAIO: Second.

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

Any opposed? (no response)

Any abstentions? (no response)

Okay, we're sitting as the Judicial Retirement System Board of Trustees.

So we're now on to the Department of Treasury, Division of Pension and Benefits requests, and sitting as the Board of Trustees for the Judicial Retirement System.

No. 1, approval of the minutes of the meeting held September 23, 2019.

May I have a motion for that?

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Second?

MS. BRENNAN: Second.

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

Any opposition? (no response)

Any abstentions?

MS. STEVENS: I abstain.

MR. SHAUGHNESSY: Thank you, Ms. Stevens.

ASSEMBLYMAN MORIARTY: I'm not sure if I was even here. I have not had a chance to look at the meeting minutes, so I would abstain at the moment.

MR. SHAUGHNESSY: Okay, thank you.

Next, on to confirmation of the death claims, retirements, and survivor benefits.

Any questions or comments with regard to that? (no response)

Any members of the public here want to be heard on that? (no response)

Okay; may I have a motion on that?

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Second?

MS. BRENNAN: Second.

MR. SHAUGHNESSY: Thank you.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Associate Director Stevens.

MS. STEVENS: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

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

Now, No. 3 is just the receipt of the financial statements for July to August 2019.

Any comments or questions at this point on that? (no response)

Any member of the public want to be heard on that? (no response)

Hearing none, motion?

MR. BRAZ: So moved.

MR. SHAUGHNESSY: Motion; and second for the receipt of the financial statements?

ASSEMBLYMAN DiMAIO: Second.

MR. SHAUGHNESSY: Second; thank you.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: Yes.

MR. SHAUGHNESSY: Associate Director Stevens.

MS. STEVENS: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: No. 3 is approved.

No. 4 is a presentation for consideration. It's a presentation by the actuary of the July 1, 2018, Judicial Retirement System Valuation Report. So I would ask that that be the next item on the agenda.

S H I R L E N E S C O T T: (off mike) They're on their way over now.

MR. SHAUGHNESSY: Oh, Ms. Scott, they're on their way over?

Okay; so why don't we defer that for the moment, for the time being.

MR. BRAZ: Why don't we go into Executive Session?

MR. SHAUGHNESSY: Okay.

First, we're now on to the remaining matter, and we'll come back to No. 4.

The remaining matter is for -- the Honorable Vincent Falcetano appeals the administrative decision to deny the purchase of temporary and/or uncredited service. So that's the matter up for consideration.

Are there any presentations to be heard on this?

ANGELO J. GENOVA, Esq.: (off mike) Good morning, Senator Braz, Commissioners--

MR. SHAUGHNESSY: Please come up.

MR. GENOVA: Good morning, Chairman Braz, Commissioners, Senator Cardinale--

MR. BRAZ: Good morning.

MR. GENOVA: --Assemblyman DiMaio--

Let me start over.

Good morning; Angelo Genova is my name. I'm with the law firm of Genova Burns. I'm here today on behalf of Judge Falcetano, who sits in the Monmouth County Vicinage. He's to my right; to my left is Nicholas DePaulo, who is an associate at my law firm.

Assemblyman Moriarty, Ms. Brennan, Ms. Stevens, Commissioner Braz, Assemblyman DiMaio, Senator Smith, Senator Cardinale, thank you for the opportunity to meet with you this morning.

We're here seeking to have the State House Commission approve certain service credits for Judge Falcetano. Judge Falcetano, as I indicated, sits in the Monmouth Vicinage, and he's approximately two years away from his retirement.

He has sought to have applied to his service, time that he invested early in his career -- public service with the New Jersey State Board of Mediation. That service would allow him to secure a pension upon his retirement at a 50 percent rate of what would otherwise be his judicial pension.

We're here today seeking to have you apply statutes which are specific to the application of prior credited service that make clear that if someone sits on the Judiciary, and they seek to have prior service credited, that that prior service can be credited on a threshold which is simply, "Were you employed in the public service, and did you, in the years of your employment in the public service, in fact earn \$500 per year?"

The relevant statutes and regulations are clear in that regard, and they are specifically N.J.A.C. 17:10-2.4, N.J.A.C. 17:10-4.5; and the underlying enabling statute is N.J.S.A 43:61-14.2.

Now, we think, under the clear face of those regulations and those statutes, that the time that Judge Falcetano invested with the New Jersey State Board of Mediation would allow for credited service, to allow him to reach the threshold for the 50 percent pension. And we seek to have your determination and your award to that effect.

It's undisputed that he served with the New Jersey State Board of Mediation for approximately three years and nine months, back in 1978 to June of 1982.

When he applied for his pension and he sought to assemble the requisite information to have that service credited, he interacted with the Division of Pensions. And as you know, the Division of the Pensions is kind of a two-headed beast, in the sense that it provides the supporting bureaucracy for this Board, the State House Commission, and for the PERS. And in the process of doing that, we -- and the correspondence between Judge Falcetano and the agency had him making submission to the Division of Pensions on questions of whether or not this service was credited, or could be credited.

Ultimately, the issue got to the PERS Board as a result of the inquiries that Judge Falcetano made. And they applied their rules in a manner that we think are inconsistent with the Judicial Retirement Systems' rules. They made a determination -- and I believe that should be in your package, and there is a DAG here who sat there -- they made a determination, under their rules, that there was a break of service and this was in the nature of temporary service. And they were of the view that the service we sought to have credited should not or could not be credited.

But they did that in a manner that ignored the rules that are applicable to the Judicial Retirement System. And in fact, in their determination in October, they were silent on the application of the Judicial Retirement System rules.

Now, that's important because when Judge Falcetano made his application -- or went to the bench in the reliance upon the application of the Judicial Retirement rules, he relied upon the fact that when he dealt with the Division of Pensions, one of the items that they provided to him was the JRS rules, and they provided him the rule that I cited -- the rule that says Public

Service, wherein you receive an annual compensation of \$500, is creditable service.

So in reliance upon that, reliance upon being provided with the Judicial Retirement System handbook, he proceeded to leave his private practice, abandon his private practice, make life choices, and embarked on what has become a well-regarded Judicial career.

Now, after the fact, in dealing with the Division of Pensions, he is learning that their position not only is adverse to what he was told at the inception -- and that's not to cast aspersions on any one individual -- but he's also finding that they're seeking to apply rules that are inapplicable; meaning that, it's your rules, it's this Board that has the authority, ultimately, to make the determination as to whether or not the service is credible.

So that being said, we think it is creditable. We think it is creditable on the face of the regulations that I cited to you, and we're asking you to award us that time and Judge Falcetano that time.

The specific regulation reads, "The Judicial Retirement System provides that a member of the Judicial Retirement System may 'purchase service rendered in an office position or employment of the State of New Jersey, or of a county, municipality, Board of Education, or public agency of the State of New Jersey, provided that the annual salary or compensation was at least \$500 pursuant to N.J.S.A. 43:6A-14.2.'" And the statute that's cited mandates participation in the Judicial Retirement System.

So for all those reasons, we believe it's pretty clear; and that on the face of the regulations, he should be entitled to secure that credited service; that the determination of PERS is of no consequence because they don't have authority over the Judicial Retirement System. You have

authority over the Judicial Retirement System; and that to the extent that we found our way to the State House Commission through this tortured mechanism is unfortunate. But nonetheless, we preserved our appeals and our rights to be here. We did so in our communications with PERS; PERS has not told us we have no right of appeal. In fact, they indicated that we should come to the State House Commission, which is, in part, why we are here. And they have stayed any determination, knowing that we were going to be coming here for your determination within your jurisdiction.

So I'll respond to any questions. Justice Falcetano is here to respond to any questions, if you have any.

SENATOR CARDINALE: I have a question.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: The only question I have is -- you've indicated that our rules would permit the (indiscernible). What kind of confirmation can you give us that that is so? Have we done this before?

JUDGE VINCENT N. FALCETANO, Jr.: Have I done this before?

SENATOR CARDINALE: No--

JUDGE FALCETANO: I can't say that I've argued--

SENATOR CARDINALE: --have *we* done--

JUDGE FALCETANO: Oh, has the Board done this before. I can't speak to whether or not the Board has done this before, other than to say that the Board has its-- That might be a question to Counsel or to the DAG, Senator. But it would seem to me that if the same question was posed to the Board -- is there public service that would qualify to be credited for a

judge, and that public service meets this statutory definition and the \$500 threshold -- I would think that the Commission would have no alternative.

One point I would make to you, as you deliberate on this, is the Legislature decided in its wisdom to treat judicial pensions differently than public employee pensions. The statute was created for a judicial system, and it would make sense that to the extent that you want to encourage people to the bench, you may be more liberal -- the Legislature may have decided to be more liberal in the types of service that could be credited, in anticipation of encouraging people to go to the bench, maybe at a time when there were deterrents. Today I think there is more marketplace encouragement for people to go to the bench; but there may have been a time when people didn't want to leave occupations or--

SENATOR CARDINALE: Let me intervene.

I understand all that.

JUDGE FALCETANO: Yes.

SENATOR CARDINALE: And I am sympathetic to the case, because it seems that it's a mere technicality of a month, a month-and-a-half that brings us here today.

My only question is, do we have the power to do what you're asking?

MR. KOTLER: Senator, we'll be going into -- or I'm going to suggest we go into Executive Session for legal advice on that point.

SENATOR CARDINALE: Okay.

MR. GENOVA: Yes, I will respond.

I believe you do have the power. I believe there's an enabling legislation that -- this is one lawyer on behalf of a client, Senator -- I believe

you do have the power; I believe it resides in the statute. It's manifest in the regulations, and it's within your authority, recognizing that the Division of Pensions is not the determining agency. They're a part of the bureaucracy that services a Board, which is called the *PERS Board*. You are of equal standing of the PERS Board, at a minimum, and I would say have preeminent standing because it's your charge to manage the affairs of the Judicial Retirement System.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Just for the record, I'm looking through your-- I'm looking at biweekly pay for those periods. Who determined that this was a temporary position, when someone was working there for four years? Was that the State, by just defining it that way? Because, frankly--

JUDGE FALCETANO: The PERS Board did, because there were missing pay periods. I got married, I took the bar exam.

MS. SCOTT: (off mike) The employer actually determines (indiscernible).

ASSEMBLYMAN DiMAIO: The employer--

MS. SCOTT: (off mike) The employer.

ASSEMBLYMAN DiMAIO: --which was--

MS. SCOTT: (off mike) (Indiscernible).

ASSEMBLYMAN MORIARTY: I think we should have-- If they are giving pertinent information, we should have them on the record and have it in the--

MR. GENOVA: I'm going to ask my associate--

ASSEMBLYMAN DiMAIO: But my point is this. This looks like someone who was working regularly at that agency, when you count the amount of weeks per year. And I want to put this on the record, because if we were to be determining, for private employers, something like this for any kind of benefits, we'd be looking at things like this. Just because they determined it to be temporary, that was their opinion. I'm not seeing it that way.

And I just wanted to put that on the record.

MR. BRAZ: Please, Assemblyman.

ASSEMBLYMAN MORIARTY: Since the Judge is here, could you describe the work that you undertook at the NJSBM for a little less than four years? What was the work, how many hours did you typically work, and how much do you think you got paid from them in those years?

JUDGE FALCETANO: I haven't looked at those payroll records. At the time, I was going to law school down the block in Newark. I worked for the Executive Director at the time, John Tesauro; and I also worked for the Administrator who ran the Arbitration and Mediation process.

So my time was basically split between working on projects for the Executive Director, as well as -- if anybody remembers the volume of Labor arbitration there was back in the late 1970s and early 1980s, there were arbitrations going on all the time. You had to send out multiple panels, deal with the arbitrators and the attorneys. It was a full-time job for a young college graduate at the time.

MS. BRENNAN: Excuse me, how many hours a week did you work?

JUDGE FALCETANO: You know, I'd want to say-- I could guess; I really don't recall, but it had to be at least 35, 40 hours. I was a night student across the street at Seton Hall Law School. So I would walk across Raymond Boulevard to go to class. So it was a full-time job, as far as I was concerned. I would go there in the morning, before 9 a.m., and not get home until 10 or 11 p.m.

MR. GENOVA: If I might give you the specific answer. The payment history request indicates -- that I'm looking at; and we can mark it, if you wish, if you don't have it in your record -- but it looks like biweekly -- I'm just reading off -- 49 hours, 70 hours, 63 hours, 70 hours, 56 hours. So it's reading like 25 to 30 hours a week.

MS. BRENNAN: Okay.

Is the Division of Pensions in the room?

MS. SCOTT: (off mike) Yes.

MS. BRENNAN: Can you come up?

MR. BRAZ: Please state your name for the record.

MS. SCOTT: My name is Shirlene Scott. I'm the Administrator of the Judicial Retirement System.

MR. BRAZ: Thank you.

MS. BRENNAN: Can you speak to how it is -- how an employee is determined to be temporary or not, and how the Division of Pensions currently treats temporary employees in the workforce?

MS. SCOTT: When a purchase request is submitted, we have to go back to the employer, with whom they worked, for the employer to certify their service, their time. And the employer completed an employer

certification, and they determined that the time was temporary, and it did not lead to permanent employment because there was a break in service.

MS. BRENNAN: So are there any guidelines for how an employment is determined to be temporary?

MS. SCOTT: There are guidelines in the Public Employees Retirement System, yes, as far as being a temporary employee, and whether it leads to permanent employment or not, whether you can be enrolled into the Public Employees Retirement System.

MS. BRENNAN: So is that the threshold -- whether it leads to full-time, permanent employment?

MS. SCOTT: Yes.

MS. BRENNAN: So for example, you could have somebody who's sitting in a Civil Service title, probationary; would they be considered temporary?

MS. SCOTT: I'm not sure, because it would depend on the time period. Because I know there are different rules and regulations. I'm not very familiar with the Public Employees Retirement System rules and regulations.

ASSEMBLYMAN MORIARTY: I have a question.

MR. BRAZ: Please.

ASSEMBLYMAN MORIARTY: Can you give me an idea of how this would affect the Judge's pension?

MS. SCOTT: Yes. If he does not purchase -- if he's not able to purchase this time, his benefit would be calculated on his judicial retirement service only, and that would be 2 percent of his final salary for each year of credited service.

If he's able to purchase this time, along with other time that he was quoted, and he would have a total of at least five years of aggregate service, his benefit would be calculated at 50 percent of his final salary.

ASSEMBLYMAN MORIARTY: So this is a lot of dollars. I mean, because how long has he been a Judge? Since--

JUDGE FALCETANO: Three-and-a-half years.

ASSEMBLYMAN MORIARTY: Right; so that would be 2 percent times 3.5 of his final salary; as opposed to 50 percent. And what would it cost to purchase -- if he were allowed to purchase these credits, what would he have to pay for these credits?

JUDGE FALCETANO: I can answer that question.

The quote that Ms. Scott gave me at the time-- I don't know if it's included in the papers, but I'm purchasing time that I had at the Essex County Prosecutor's Office. I would need, as Ms. Scott just said, 15 in the aggregate service, at least 5 on the Judiciary.

MR. GENOVA: The delta, Assemblyman, is \$6,000 a month; and I believe the purchase amount was approximately \$106,000 originally. At least, that's in the original letter that was provided.

JUDGE FALCETANO: That's correct; about \$107,000 for the Essex County Prosecutor's time only; this would be in addition. And I wouldn't need the entire three years, nine months, in order to qualify for the pension. I would only have to purchase a portion of the State Board of Mediation time.

And one other point -- the break in service that Ms. Scott refers to -- the fatal break in service, as far as they're concerned, is I was hired in the Essex County Prosecutor's Office in the summer of 1982. I left the

Mediation Board and took some time off before I started in the Prosecutor's Office in August of 1982. That renders that service *temporary*, because it doesn't "lead directly into full-time employment."

MR. GENOVA: It's hard to ask a judge, who is your client, not to say anything; so I won't do that.

But I want to be clear about something. The concept of *temporary service* is not found in the Judicial Retirement System. We're talking about the standard that is inapplicable under your statute that you administer and under your regulations.

So the point has been made that PERS is seeking to apply, to a judge's pension, standards which are inapplicable under the statute which regulates the Judicial Retirement System.

MS. BRENNAN: But doesn't the Judicial Retirement System assume that you have creditable service eligible for purchase? And under the PERS system, this would not be eligible.

MR. GENOVA: Well, I think that that's probably the argument you're going to hear from -- it may be the argument you'll hear from the Deputy Attorney General from PERS. But I would argue to you, and why this is an important issue -- and maybe this is what prompted Senator Cardinale's question -- is there's a direct contradiction. Your statute that you are charged with administering does not have the temporary service standard. And if you were to defer to PERS in that judgment, then that would contravene the regulation that I read to you, based on the statute. But the only standard is, did you have prior public service over the litany of the types of public service? And did you make \$500 in a year? That's the test, and

that's the test of creditable service that applies. And that's the test that we seek to have you apply.

So I respect, Deputy Treasurer Brennan, the argument; but I think, on the face of the regulations of the statute, that we prevail, because that's the operative standard. It doesn't say anything about break in service, it doesn't say anything about temporary service. It says, "What's your prior service, and did you make \$500?"

ASSEMBLYMAN MORIARTY: Mr. Chairman, I don't have any other questions. If anyone else doesn't, I think we need to go into Executive Session, I would think.

MR. BRAZ: Does anyone else have any further questions? (no response)

MR. SHAUGHNESSY: Okay, to that extent, may I have a motion to move into Executive Session--

ASSEMBLYMAN MORIARTY: I make that motion.

MR. BRAZ: Second.

MR. SHAUGHNESSY: --to receive legal advice from the Deputy Attorney General?

Okay; motion and second.

All in favor? (affirmative responses)

Any opposed? (no response)

Any abstentions? (no response)

Okay, that motion has been granted, and we're going to be going into Executive Session. Please clear the room.

MR. BRAZ: Thank you.

This matter will remain confidential as long as the need for confidentiality remains.

MR. SHAUGHNESSY: Thank you, Counselor.

(Commission convenes in Executive Session)

(Commission returns from Executive Session)

MR. SHAUGHNESSY: Okay, we're back in public session; thank you for your patience.

MR. BRAZ: Thank you for your patience, as we deliberate on this specific case.

So please, Mr. Shaughnessy.

MR. SHAUGHNESSY: Yes; we now have the matter of the Honorable Vincent Falcetano appeal of the administrative decision to deny the purchase of temporary and/or uncredited service.

So that was the matter for consideration.

Do I have a motion, after Executive Session, on this matter?

MR. BRAZ: Mr. Shaughnessy, to be clear.

MR. SHAUGHNESSY: Yes.

MR. BRAZ: A "yes" signifies what, and a "no" signifies what in this case?

MR. SHAUGHNESSY: So the answer is that a motion to overturn the denial and to affirm, if you will, the request to purchase the service. That would be the motion.

MR. KOTLER: Then that would be a "yes."

SENATOR CARDINALE: So moved.

MR. SHAUGHNESSY: Senator Cardinale -- so moved?
Do I have a second to that motion?

MR. BRAZ: Second.

MR. SHAUGHNESSY: Motion and second; okay.
Let me call the roll at this point.

Deputy Chief of Staff Braz.

MR. BRAZ: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Brennan.

MS. BRENNAN: I'm voting "yes," and I hope that the
Legislature will clarify and give better guidance on this, going forward.

MR. SHAUGHNESSY: Thank you for that clarification.
And then, Associate Director Stevens.

MS. STEVENS: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Thanks for hanging in there.

SENATOR SMITH: You're welcome.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman DiMaio.

ASSEMBLYMAN DiMAIO: Yes.

MR. SHAUGHNESSY: That matter is approved -- to allow the
purchase to move forward.

MR. GENOVA: Thank you for your time, and thank you for the seriousness of your deliberations. It was much appreciated.

JUDGE FALCETANO: Thank you; thank you very much.

MR. GENOVA: Thank you, Senators.

MR. SHAUGHNESSY: So we are on to the final matter, which we deferred in this matter -- which is just a presentation.

MR. KOTLER: Members, we have one more matter, if you could hang on.

MR. BRAZ: Counsel is speaking.

MR. KOTLER: So because we are not going to have five individual members-- Oh, okay; so hold on a second. We will not have enough; a quorum is still five.

So I apologize; we need you to come back at the next meeting. We have lost the quorum.

MR. KOTLER: We are adjourned.

MR. SHAUGHNESSY: We are adjourned; thank you very much, Counsel.

(MEETING CONCLUDED)