
Commission Meeting

of

STATE HOUSE COMMISSION

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

DATE: September 19, 2002
9:00 a.m.

MEMBERS OF COMMISSION PRESENT:

Paul Josephson
(Representing Governor James E. McGreevey)
Senator Walter J. Kavanaugh, Chair
Senator Bernard F. Kenny Jr.
Assemblyman Anthony Impreveduto
Assemblyman Michael J. Doherty
Charlene M. Holzbour
Robert L. Smartt

ALSO PRESENT:

Edward R. McGlynn, Secretary
Robert J. Shaughnessy Jr., Counsel



Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
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SENATOR WALTER J. KAVANAUGH (Chairman): Good morning, ladies and gentlemen. Could I have your attention? Will all the attorneys hold up. You're getting paid, so you don't have to talk. (laughter)

This morning is September 19, 2002, State House Commission meeting. We've met the Open Public Meetings Act.

At this time, I'd call for a roll.

MR. McGLYNN (Secretary): Director Holzbaaur.

MS. HOLZBAUR: Here.

MR. McGLYNN: Deputy Treasurer Smartt.

DEPUTY STATE TREASURER SMARTT: Here.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Here.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Here.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Here.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Here.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Here.

We'll start initially under old business for the State House Commission meeting of June 24. You have received them. Is there a motion, please?

CHIEF JOSEPHSON: So moved.

SENATOR KAVANAUGH: So moved. And seconded?

MS. HOLZBAUR: Second.

SENATOR KAVANAUGH: Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: I'm going to abstain.

(indiscernible)

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

We move to new business in Item Number 2.

MR. McGLYNN: Do you want to do it the way you did it last time where you asked--

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: --to hear-- Why don't we find out who is here on what numbers and then we can read them, en masse.

SENATOR KAVANAUGH: Does everyone have the minutes?
We'll go Numbers 2 through 12, which are items not in any department, then
we'll move onto Transportation requests.

Is there anyone here to comment on Numbers 2 to 12? (no
response)

If not, could we have a motion.

ASSEMBLYMAN IMPREVEDUTO: Moved.

CHIEF JOSEPHSON: Second.

SENATOR KAVANAUGH: Moved and seconded.

Roll call, please.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

Next we'll have the Department of Transportation requests, Items Numbers 13 through 15. Anyone here to comment? (no response)

ASSEMBLYMAN IMPREVEDUTO: Moved.

CHIEF JOSEPHSON: Second.

SENATOR KAVANAUGH: Moved and seconded.

Roll call.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

Next we move Wireless Communications' requests, Numbers 16 through 18. Anyone here to--

ASSEMBLYMAN IMPREVEDUTO: Moved.

CHIEF JOSEPHSON: Second.

SENATOR KAVANAUGH: Roll call, please.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

Okay. Now, the Department of Environmental Protection requests, Numbers 19 through 28. Does anyone have any comments on any items on Numbers 19 through 28?

Yes.

MR. McGLYNN: Most people are here on Item Number 19, I believe.

SENATOR KAVANAUGH: Is it 19? Is there any other than 19?

All right. Let's move--

ASSEMBLYMAN IMPREVEDUTO: Can we move the others?
Hold 19 and move the--

SENATOR KAVANAUGH: Yes, Numbers 20 through 28.

ASSEMBLYMAN IMPREVEDUTO: I'll move 20 through 28.

CHIEF JOSEPHSON: Second.

SENATOR KAVANAUGH: Moved and seconded.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Assemblyman Impreveduto.

ASSEMBLYMAN IMPREVEDUTO: Yes.

MR. McGLYNN: Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

All right. Now we go to Number 19. Would you call that, please?

MR. McGLYNN: Yes. Number 19 is County Open Space and 4-H Fairgrounds in Middle Township. The New Jersey Department of Environmental Protection, on behalf of the County of Cape May, requests approval to divert approximately 12.3 acres of parkland for the construction of the Atlantic Cape Community College in Cape May County. The diversion of parkland will consist of 7.16 acres for the college building and parking lot,

1 acre for access roads to the college site, and 4.14 acres for a series of water quality basins.

SENATOR KAVANAUGH: Good morning, Commissioner. On behalf of the Commission, we ask that you would testify regarding the particular item on the agenda.

COMMISSIONER BRADLEY M. CAMPBELL: Good morning. Thank you for the opportunity to testify.

MR. McGLYNN: Excuse me, Commissioner, it should be red. (referring to PA microphone)

COMMISSIONER CAMPBELL: Yes, thank you.

Mr. Chairman, members of the Commission, thank you for the opportunity to appear before you today. I thought it important to come because this item before you has been a matter of great controversy, great discussion. I thought it important to understand the merits and the history of this particular proposal so that the Commission has a full sense and a full perspective on how this came before the Commission.

This proposal concerns the diversion of approximately 12.3 acres that would be part of the development of a community college for Cape May, Atlantic Cape Community College. This is a record that was largely formed during the tenure of my predecessor during the Whitman administration, most notably, one that was shaped by consent decree on November 30 of 2000, in which the Department of Environmental Protection made a series of commitments to the county relative to the site selection for the college. Specifically, the Department agreed to include this area in the regional center under CAFRA.

The Department agreed to include this site in the 2008 Water Quality Management Plan. The Department agreed to support the diversion of parkland parcels in order to allow for the development of the college. And finally, the Department agreed to process a CAFRA application and to address any issues concerning threatened and endangered species through mitigation. That occurred in November of 2000. That was memorialized in a judicial consent decree that's binding on the Department, and it was not appealed either by the Department or other parties interested in the litigation at the time.

What that did was, it set up a series of governmental decisions and actions that essentially reinforced the county's expectation that this site would be the site for the college. It resulted in a CAFRA permit. It resulted in the amendment of the Water Quality Management Plan to reflect this site selection. It resulted in the redesignation of the town center. That occurred in May of 2001. The Water Quality Plan amendments were done in September of 2001. Finally there was the acceptance of the land use, the actual site plan under the Coastal Areas Facilities Review Act. That took place in 2001 as well. What you have, as I said, are an accretion of the decisions by the Department -- again, prior to my arrival -- that reinforced and led Cape May and the proponents of the college to a legitimate expectation that this was the site.

At some point, the acreage that was before you -- that is before you today -- was identified as parkland as well. The original consent decree technically, by its terms, didn't apply to the acreage before you. You'll hear the argument that, "Well, that's technically a different parcel, and we ought not

to consider this history and the consent decree in light of that parcel,” but this parcel before you today adjoins the parcel and is essentially part of the whole that was considered and effectively endorsed by the Department in November of 2000, nearly two years ago at this point.

Based on that record, I considered as a matter of equity, as a matter of the Department’s legal obligation important to weigh heavily the expectations that were created for the community for the proponents of the college by the series of decisions, even though they occurred under my predecessor’s tenure. That having been said, in applying the standards that we are given for Green Acres diversion, the Department and, I, personally, held the bar high in terms of the scrutiny of this application. I rejected an initial round of appraisals for this property. I refused to allow Cape May to use Open Space funding to fund the replacement parcels, because that would, in effect, reduce the net funds available for Open Space protection and made sure that every particular of the regulations protecting and safeguarding diversions of properties was followed to the letter.

In addition to that, having heard many claims about the environmental merits of this particular piece of property, I wasn’t sufficient to do just that, but also visited the site itself. I have to say that many of the claims that are made concerning the property are, in my view, implausible. There are claims that it will sever the only greenway. In fact, the college’s plans, which were approved by the Department under CAFRA, will maintain a bike path connecting the existing open space parcels.

There are claims about threatening endangered species, but, in fact, as an expressed condition of the college’s CAFRA permits, we’ve required

that the preservation of 127 acres of habitat in exchange for this 12 acres of development, essentially a 10-to-1 ratio, and one that is separate and apart from the mitigation for the Green Acres diversion itself. In other words, that 127 acres is over and above the half million dollars the county is going to put aside -- again, not using open space funds -- in order to compensate for the loss of the open space parcel.

So that combination of items -- you'll hear a number of other arguments today, I'm sure, that will displace the 4-H and the Boy Scouts. In fact, those groups will continue to have access to the property. There's one particular assertion that I've seen in the press that it will force through a development of a golf course and condominiums using the same sewer line for the college, and that is not correct. But I think the bottom line here is that, at some point, the expectations, again, that were created over a series of decisions by the Department, even if they weren't decisions I would have made at the time, need to be honored. There are certainly cases where the law, the equities, and the merits of a particular case require us to reverse decisions that were made in the past, that were made by, in my case, by my predecessor. I have been willing to do that on any number of occasions.

In this case, the law, the equities, and certainly the record, here, before this Commission, in my view militate in the other direction. They militate for honoring the expectations that the government, in many decisions, has made over the past several years, and for not pulling the rug out from under this proposal, particularly where this series of green lights has been given to the county and particularly where not only have the requirements of the regulations been met, but in terms of species protection, in terms of

eliminating storm water runoff, and in terms of a series of other measures by the county. In my view, the application goes above and beyond the technical requirements of the law.

So, with that, I'm happy to answer any questions the Commission may have.

SENATOR KAVANAUGH: Thank you, Commissioner.

Are there any comments from any of the members at this time?

(no response)

All right. Thank you, sir.

COMMISSIONER CAMPBELL: Thank you for the opportunity to appear.

SENATOR KAVANAUGH: Do we have a list of those who -- a sign-up sheet?

MR. McGLYNN: Just for the purpose of the record, Mr. Chairman, we have correspondence from the Rutgers Environmental Law Clinic that was faxed last night and hand delivered this morning. I know the attorney for the Rutgers Environmental Law Clinic is here. We also have a letter from the Association of New Jersey Environmental Commissions, a letter from the New Jersey Environmental Federation, and a composite letter from the Cape Accountability Civic Group, the New Jersey Conservation Foundation, the American Littoral Society, the New Jersey Audubon Society, the Pineland Preservation Alliance, the New Jersey Environmental Federation, Sierra Club, the New Jersey Chapter, which will be part of the record.

SENATOR KAVANAUGH: The members that have signed up -- I see the number here that are not Cape May County residents. I think

certainly we should hear from all, but when you're weighing an issue, the members that are of that county, or wherever it's possible, for the taxes should certainly have the first opportunity to speak.

MR. McGLYNN: We do have a number of members from the county college. We have the attorney for the county college here, who are all prepared to speak--

SENATOR KAVANAUGH: But I wonder, do we have-- If you have that, Mr. Secretary, instead of having 10 people giving us the same rhetoric over and over, we certainly will get an opinion. Do we have a key spokesman for the various groups? If we could first have some that are going to-- Who is going to speak in favor of, who is going to speak that's opposed to the issue, because we've had an opportunity to review this, and we, as the Commission, are only putting our imprimatur on the move through, whereas this has all been gone over by the local and county officials. So that we don't want to just keep turning the dirt.

MR. McGLYNN: May I suggest that Mr. Borden be first to -- as the attorney for the Rutgers Environmental Law Clinic. Because I think, in his documentation, he's going to ask us for certain things.

SENATOR KAVANAUGH: Tom. Okay. Now we have Tom coming up. Who's going to be -- so that we know--

MR. McGLYNN: Well, who else wants to be heard from those that are opposed to the diversion?

SENATOR KAVANAUGH: You know, you have a lot of hands flying up here. Who is opposed in this -- Cape May County residents?

MR. McGLYNN: The question is who is opposed that is present today that is a Cape May County resident? Opposed. I'm sorry, did I see someone in the hall waving?

SENATOR KAVANAUGH: She was trying to get through the surf.

MR. McGLYNN: Okay. So we have a resident from Cape May County that is.

SENATOR KAVANAUGH: Are you the young lady who is opposed?

LINDA A. COLSON: To the project? Absolutely.

SENATOR KAVANAUGH: You're from Cape May County?

MS. COLSON: Yes, I am.

SENATOR KAVANAUGH: Would you join Tom at the table.

MS. COLSON: If you bear with me for a second, until I--

SENATOR KAVANAUGH: Tom will begin, so that you can collect your wits there.

MS. COLSON: Okay. Thank you.

THOMAS A. BORDEN, ESQ.: Thank you, Commissioners. My name is Tom Borden.

I'm sorry, red is correct. (referring to PA microphone)

Good morning, Commissioners. Thank you for having us in. My name is Tom Borden. I'm with the Rutgers Environmental Law Clinic. I'm here today representing the Sierra Club, New Jersey Conservation Foundation, New Jersey Audubon Society, Pinelands Preservation Alliance, and New Jersey Environmental Federation.

We sent in that correspondence last night, and I wanted to make clear our position as to essentially a procedural argument we're making. As Commissioner Campbell rightly testified this morning, DEP signed a consent order in November of 2000, which essentially, under the Whitman administration, tied the Department's hands to approve this diversion today. While normally the diversion process -- this board relies upon DEP's recommendations. This consent order changes the game substantially in such the fact that the Whitman administration committed to this diversion.

What we asked in our letter to you is that because of this particular circumstance, because DEP's hands are tied, that this Commission review the entire record and have your staff make recommendations to you as to whether this diversion should be approved. As you know, there were three public hearings over almost a year in length. There was substantial public comment in opposition and in favor of this diversion. We see it as your obligation to perform an independent inquiry into this matter and ask that you defer action on it today, take it under advisement and your consideration, and have your staff make a recommendation to you as an independent body.

Similarly, we made a request that, should you approve the diversion today, that the matter be stayed pending an appeal. Since you only meet quarterly, the court rules ask that we ask you after you've approved it, but you only meet quarterly. Essentially, those are the two procedural arguments that I wanted to put on the record. As you know, we have various members who I represent, who are here to testify, who are not Cape May County residents, but will be testifying to the issues on the substantive basis.

But perhaps Linda would like to take it from here.

SENATOR KAVANAUGH: Good morning.

Would you identify yourself and where you live?

MS. COLSON: Yes. The name is Linda Colson. I live in Cape May Court House, Middle Township, Cape May County, New Jersey. I am a member of and representative of a civic group called Cape Accountability.

Three and a half years ago, we began opposing this diversion. But for some reason unbeknownst to us, the politicians in our area have kept pushing and pushing and pushing, using our tax money for lawsuits, having rules and regulations tromped over, and changing laws. We, as a small group, do not have the resources nor the power that they have, but we've prevailed for three and a half years.

My statement is simply this. We oppose the diversion of Green Acres parkland for development. We have sent over 1500 signatures of residents who are of legal voting age. They are not only from Cape May County. They are from Cape May County and throughout the State of New Jersey. They've been submitted to the Green Acres Program opposing this diversion, and let me repeat, over 1500 people in opposition to this. That's just from a small grassroots group who does not have the money and the power and the means to do many of the things that have been done to gain support of the diversion.

The parkland in question has exceptional recreational and natural resource values. It is part of Cape May County Park Central. Over three decades ago, it was earmarked for preservation and included in Cape May County's Master Plan. The plan was to build a greenway that would span the

county east to west. That plan worked beautifully, and today this greenway is being used and enjoyed by many and provides vital habitat for countless species of wildlife, some of which are threatened and endangered. I've included an attachment that will show that.

Under the Green Acres rules, parkland can be diverted only if there are no feasible alternative sites available for the proposed development. Feasible sites do exist for this development. Other sites such as the Woodbine site have not been given just and due consideration.

In the county's original advertising request for proposals for this project, the evaluation criteria stated that impact to the existing environment and/or neighborhood would be considered. There has been no impact study done to consider the effect of this project on the surrounding open space lands, the children's recreational fields, the 4-H lands, and our Cape May County Park and Zoo, which all border this site. There has been no impact study done to consider the effect of this project on the quiet rural neighborhood that abuts this site. It would not take much of a study to consider an impact of 1200 people-plus in and out of this area daily and what it's going to do to the surrounding quiet area and the open space around it.

The three-and-a-half-year delay and millions of dollars added unnecessary expense incurred in this project is a direct result of the ignorance and incompetence of Cape May County administrators and freeholders and the administration of the Atlantic Cape Community College. The County now says that they have gone too far to choose another site, and they use this -- they actually use this as a reason that the Department of Environmental Protection must approve this site. This is not a responsible nor a valid reason

for Green Acres rules and regulations to be ignored and disregarded. Cape May County freeholders and politicians are not above the law.

We cannot, and we will not, sit by while the Cape May County Freeholders break laws that have been put in place to protect our environment and our people. We cannot, and we will not, sit by while the Cape May County Freeholders rape our open space inventory for free land for development. This land in question meets every criteria for land that is chosen and preserved by the Green Acres Program. A diversion of this parkland would set a precedent that will jeopardize our entire statewide Green Acres land.

Bradley Campbell, Commissioner of the Department of Environmental Protection, recently asked that quality versus quantity be considered when choosing land for our open space preservation. This is quality land, and it is already protected and preserved.

Governor James McGreevey just introduced a new Office of Smart Growth. This development is not smart growth. In this day, when urban sprawl is of such great concern to many, we cannot afford to let this valuable land be lost.

When the people of Cape May County voted for an open space program, they had faith that that land purchased with open space funding would be preserved forever. This diversion must be denied to maintain that public faith. When the people gave you their vote, they entrusted you to make decisions in their best interest and in the best interest of their neighborhoods and their environment. This diversion must be denied to maintain that public trust in you.

If Commissioner Campbell's quality versus quantity and Governor McGreevey's Office of Smart Growth are to be more than just failed promises, this diversion must be denied to support both Commissioner Campbell and Governor McGreevey. I ask you, respectfully, to please deny this diversion.

Now this is not part of my statement, but it's something that came up after I prepared my statement, and I feel compelled to mention it. I mentioned to you about our resources and that we are a small little group who do not have a lot of resources, and we're fighting a great big political machine that has tons of resources. It was brought to my attention that signs were posted at the Atlantic Cape Community College so that supporters would come to this meeting this morning at 9:00. They were offered a free bus ride to Trenton. They were offered free breakfast and free lunch; all by an institution that is supported and funded by tons of tax money. We couldn't afford to offer free lunch and free breakfast, or nor a free bus ride, but I'm here on behalf of many, many people to let you know how they feel. Because they are working today, and they could not afford to be here. Incidentally, the College closed and canceled many classes to bring people here today.

Thank you for the opportunity to give comment.

MR. McGLYNN: Ms. Colson, do you want to-- That statement-- We have a verbatim transcript, which is made of the meeting today, so that will be spread upon the record, but I wondered if you wanted to submit that as part of it.

MS. COLSON: Yes, I do.

MR. McGLYNN: Okay, thank you.

SENATOR KAVANAUGH: All right. Now, we've had two in opposition. Is there anyone else here that feels it necessary to comment in opposition? (three audience members raise hands) You pick, which of the three. You make your choice. You all know each other, so who wants to be the speaker?

Do you have copies of your testimony? It's going to be transcribed.

EMILE D. DeVITO, Ph.D.: I have copies of all of my testimony from the last three public hearings--

SENATOR KAVANAUGH: No. No. No. No.

DR. DeVITO: --and I have a copy of this oral testimony which is just this brief summation.

SENATOR KAVANAUGH: The brief summation, that will be recorded, but you have, like, a one-page brief summation.

DR. DeVITO: No, it's not one page.

SENATOR KAVANAUGH: Well, I mean, if you can kind of limit it.

DR. DeVITO: I will. I will limit it to the best of my ability.

MR. McGLYNN: Remember that I indicated at the outset, we have a number of letters in opposition which the Commission has been copied on. So they've read all those documentation.

DR. DeVITO: Right.

SENATOR KAVANAUGH: All right. If you'd identify yourself and where you reside and who you represent.

DR. DeVITO: Good morning, everyone. Thank you for the opportunity to speak. I especially thank all of my colleagues in the conservation community for deferring to me. I hope I can do them justice.

My name is Dr. Emile DeVito, Manager of Science and Stewardship for the New Jersey Conservation Foundation, 170 Longview Road, Far Hills, New Jersey, 07931.

The New Jersey Conservation Foundation is dedicated to the preservation of land and natural resources throughout New Jersey for the benefit of all of New Jersey citizens. New Jersey Conservation Foundation is deeply concerned about this parkland diversion proposal requested by Cape May County. Cape May County is disregarding its greatest open space achievement, the assemblage of a cross-county greenway, the very foundation of its 42-year-old open space and recreation master plan. The county has chosen to disregard the high quality open space and natural resource values inherent in this 12 acres of parkland and has provided a flawed alternatives analysis to the public and to the New Jersey Department of Environmental Protection Green Acres Program.

As was previously stated, we feel that approval of this diversion application would set a very low bar for evaluating future parkland diversions throughout New Jersey, and we strongly urge the State House Commission to deny this diversion application. I will skip some material for the sake of brevity.

Often New Jersey special natural resources such as endangered species habitat, critical aquifer recharge areas, upland forests, scenic or recreational lands are not adequately protected by land use regulations, and

they get destroyed by development. When these natural treasures lie within existing protected parks, the Green Acres parkland diversion process provides the people of New Jersey with a tool to consider their irreplaceable value so that such lands do not succumb to the vagaries of land use laws that fall short of their intended goal.

The Green Acres Program and the State House Commission can and should protect such land. Indeed, the State House Commission's primary mission with regard to Green Acres diversions is to make sure that irreplaceable resources are never lost.

These are parklands on which Cape May County had never asked the people of New Jersey for the required diversion permission, because these lands were mistakenly omitted from recreation and open space inventories. These omissions were not discovered until after CAFRA project approvals had been issued.

Three endangered species, which weren't discovered until after the CAFRA process, and one endangered species that the county asserts will be better off after their habitat is covered by a building exists on this site and also a parking lot. Upland forests and critical upland aquifer recharge areas are present on this site. This site contains active recreation and passive recreation open space lands. This site is a connecting greenway corridor planned by Cape May County as the centerpiece of their open space and recreation master plan over 40 years ago. These are the 12 acres of Cape May County Park that now stand before you. They're an irreplaceable monument to the people of Cape May and the entire State of New Jersey.

The New Jersey Conservation Foundation urges the State House Commission to follow smart growth initiatives, to direct Cape May County not to build a college, where in words from Governor McGreevey's Executive Order Number 4, "It may impair or destroy natural resources or environmental qualities that are vital to the health and well-being of the present and future citizens of this state."

I would just like to read you one more excerpt from my statement. Only recently, the county realized that the site was not free land, when Commissioner Campbell instructed them that they could not use open space trust fund money to buy replacement land. They quickly dedicated \$500,000, half a million dollars, of general budget funds toward the purchase of replacement land. This single action on the part of the county invalidates their entire site selection process, as well as their alternatives analysis procedure, which were all based on a parameter that the land be free or very cheap. This is not appropriate for an alternatives analysis process and should not be allowed. But even if it were to be allowed that the land somehow -- that only free land should be considered, that underlying basis of the county site selection process is thrown into question because, all of a sudden, \$500,000 has been pledged from the general budget to buy replacement land.

The alternatives analysis should be thrown out, and it should be ruled completely invalid. It should be done over again. All the lands in Cape May County -- all the open lands in Cape May County that are buildable now and will be buildable decades into the future and do not cost \$500,000 should be considered as viable alternatives for this college.

Also, the consent order, as Commissioner Campbell testified -- the consent order instructed the DEP to actively support a Green Acres diversion of parkland at this site, and that was based on the tiny, potential diversion of a few square feet of one parkland lot to accommodate a small section of access road. Now the entire 12-acre tract it is realized needs to be diverted from the public trust. This was not known to the authors of the consent order. There is no requirement in the consent order that the Green Acres Program, the DEP, or this State House Commission must approve this decision, now that what was thought to be a de minimis release of a few square feet of parkland has ballooned to over 12 acres.

Please consider these facts in making your decision. Please, if you do make a decision to approve this diversion, please strongly consider the Rutgers Law Clinic's request that the project be stayed until your next meeting so that you can review all of these facts.

Thank you very much for your consideration of the issues. I just wanted to mention that there are representatives from Cape May County, from the municipality of Woodbine that have been informing individuals that there is an acceptable alternative for this college. You might ask them if they would like to speak. Thank you very much for your time.

SENATOR KAVANAUGH: Thank you, Dr. DeVito.

We have Michael Benson, who is the solicitor for the Borough of Woodbine. Now, are you on salary or are you on a hourly basis?

MICHAEL BENSON, ESQ.: I have a retort to that.

SENATOR KAVANAUGH: Hearing none, we'll move on.
(laughter)

MR. BENSON: Mr. Chair, members of the Commission, I'm Michael Benson. I'm the solicitor for the Borough of Woodbine, but I'm not merely a hired gun. I've grown up in Woodbine. Over the past 16 years, I've gone back to Woodbine. I'm a resident of Woodbine currently, and I have a personal key interest in Woodbine and promoting Woodbine in many matters.

Three years ago, the Borough of Woodbine appeared before the County Freeholders to promote itself. It was part of a competition among various communities in Cape May County to promote itself as a site for the county college. We think we did a very good job. We made it clear that Woodbine was available as an alternate site, and we completed our presentation. At the completion of the presentation, for various and sundry reasons, the Borough's site was rejected, and we understood that. We understood that the county had a site in Court House that it chose. Over the past three years, the Borough has remained essentially silent with respect to its own site.

However, within the recent past, the county held hearings concerning the Green Acres diversion. At one of those hearings in August, the President of the Community College appeared to give testimony. And during her testimony, the subject of alternative siting came up. The President of the Atlantic Cape Community College said, among other things, that with respect to Woodbine as an alternate site, she said, and I'm virtually quoting, "Hardly anybody knows where Woodbine is." She virtually -- she said, "The general population of the county doesn't know where Woodbine is," essentially keying in on locale of Woodbine as an alternate site.

Woodbine not only gravely resents that remark and feels that it was inappropriate and embarrassing to the community, but it simply is not factually correct. Woodbine, as a locale, is perfectly situated for this county college. We're in the northern central portion of the county. We are the hosts of the Woodbine Developmental Center, which has 2200 employees. Those 2200 employees have had no problem finding Woodbine. They manage to find their way to Woodbine everyday, and they are happy to be working in Woodbine.

The site that we're talking about is directly across the street from the Woodbine Developmental Center. That street is County Road 550. It is a central highway that links up between Route 49, covering the northern portion of the county; Route 47; South Delsey (phonetic spelling) Drive, south of Woodbine, linking the south portion of the county, as well as linking from Route 9, which is directly linked to the Garden State Parkway. Each of those links to County Road 550 are five-to-ten minutes in driving time. The Court House site is only about ten minutes from Woodbine. So, in terms of locale, we feel very strongly that Woodbine's location is perfectly suited.

It has since come to our attention and as a result of the comments that were made by the President and the Board of Trustees of the County College that there were other issues or concerns about Woodbine. We wish to address those concerns and make it clear to you that Woodbine's site is appropriate as an alternate site and should be considered for in terms of your alternatives analysis.

One -- I'll just back into the issues. One concern addressed was that Woodbine has no legal control over the site. Well, if that means that

alternatives analysis cannot consider any sites that, unless they're directly owned by a municipality that's part of the process, then that's true. We don't own the sites. However, the principle site that has been promoted by the Borough and was promoted three years ago is a site that's owned by the State. It's directly across the street from the WDC. It consists of 14 acres, and itself is linked to two other properties that can be linked by a sidewalk -- simply a sidewalk to two other virtually adjacent parcels consisting of 15 acres each. So there's an additional 30 acres available.

One site was donated by a local businessman and remains available for donation by that businessman. That's 15 acres of property. Mr. Gerald Barrett (phonetic spelling) made it clear that that property would be donated to use for the county college. Immediately adjacent to Mr. Barrett's property is property of the County MUA that has been unused, is available. And certainly if there is any need for expansion, that property would be available as well. So we have these properties that are sitting there empty, ready, and able to be used for a county college.

Another issue raised was sewage. We've seen, since three years ago, and it's only come up to us very recently -- it was never brought to our attention -- that there was a report rendered that indicated that Woodbine did not have sewage capacity available for this site. We're talking now the WDC. The WDC's own CEO, Bob Armstrong, testified three years that there was sufficient capacity, and there is, in fact, sufficient sewage capacity at WDC available for this county college. WDC itself has downsized over the past number of years. It has half the resident population that it used to have. So just based on what was promoted three years ago for sewage, that is still the

case. It is, in fact, there and available, and the capacity is there for this county site.

Since three years ago, other issues have come to the fore. Woodbine has received an EDA grant for over \$2 million to develop its own packaged sewage treatment plant at the Woodbine Airport, which also is virtually across the street from this site. That packaged sewage treatment plant is under design as we speak. The plant will be in construction next summer and completed within six months after the beginning of construction. That sewer plant is available and will be available to extend to the county to this alternative site for the county college. So, in terms of sewage, you have not only WDC as an immediately available location for sewage, but you also have our own packaged sewage treatment plant that's going to be available by next year.

SENATOR KAVANAUGH: Mr. Benson?

MR. BENSON: Yes.

SENATOR KAVANAUGH: Can I just ask you, if you could, to kind of bring things to a head here because--

MR. BENSON: Well, I will.

SENATOR KAVANAUGH: --what you've been talking about, the Woodbine site, was rejected, it says, because of its geographical location and significant travel that most students would experience to get to the location.

MR. BENSON: Yes, Mr. Chair.

SENATOR KAVANAUGH: So that it has been reviewed and then it was turned down. So -- and then there was talk about the lack of sewer and the Pinelands nitrate dilution requirements to the site are more stringent. So

these things were all brought up, now you're coming up with a late start on an EDA Grant for \$2 million.

MR. BENSON: Well, what we're indicating is that the--

SENATOR KAVANAUGH: If we wait another five years, maybe the streets will all be sewerred.

MR. BENSON: Well, no. That's not what we're suggesting.

SENATOR KAVANAUGH: No. What I'm saying is this is something that's come up. But not to delay or hold up your testimony, but, if you would, we have others that have asked to testify, and we certainly want to give everyone an opportunity.

MR. BENSON: Yes, that's understood. I do want to just simply close by indicating that the geographic location argument is inappropriate.

Thank you.

SENATOR KAVANAUGH: Thank you very much, Mr. Benson.

I wonder if John May from the Cape County College--

UNIDENTIFIED SPEAKER FROM AUDIENCE: I would like to testify, but I would like to defer to our Freeholder/Director, Mr. Dan Beyel, if that meets with your approval.

SENATOR KAVANAUGH: Certainly, but then you're off the board, but that's all right. I mentioned your name, and it will be in the record. So you can show that to the family.

We also have two others for testimony, so they can get ready, is Jeff Tittel for a very small -- and Richard Hluchan, the attorney for Cape County College.

DANIEL BEYEL: What color do I need lit here? (referring to PA microphone)

SENATOR KAVANAUGH: Red.

MR. BEYEL: Red. Okay

I'm Freeholder-Director Dan Beyel from Cape May County. I'm a lifelong resident of Cape May County. I'm a member of the Board of Freeholders for 15 years, and I'm going to give you a little background, I guess, essentially here to let you know that Cape May County was the only county that did not have any community college presence up until the late 1990s, when we made a merger with Atlantic County, and we now have a joint community college. We propose to build a branch campus in Cape May County, and that's the subject of this application.

The Board of Freeholders went through a review process and asked interested property owners or interested municipalities to provide sites to the county to be reviewed. We had about 20 sites that were submitted. We had a site review committee selected from a cross section of the people of the county to review those. It was narrowed down to five sites. We had a public hearing at the Board of Freeholders meeting. It was recommended that the proposed site is the choice of the five sites. And subsequent to that, two weeks later, the Board of Freeholders held a public hearing on designating a proposed site. They were here today. Cape May Court House, Dennisville Road, Middle Township has a site of the proposed branch campus. At that time at that public hearing, the Board conducted an open public hearing on that matter, advertising in advance. There were no objections to this site in front of the Board of Freeholders at that time. This enabled the Board of

Freeholders to have a unanimous approval from the elected officials of that township, Middle Township, which is Democratically controlled to the Republican Board of Freeholders of Cape May County. And we've had, since then, bipartisan support from our legislative delegation, our senators and assemblymen, both from Atlantic County and Cape May County and also from the Atlantic County Board of Chosen Freeholders.

This site is unique because there are very few sites in Cape May County that are large enough that may have water and sewer close by or available to be extended because of the environmental sensitivity of Cape May County. The County subsequently has obtained freshwater wetlands permits. It has a CAFRA permit from the Department of Environmental Protection. And under the Environmental Protection permit, we have some environmental issues involving an endangered species which we have a plan that has met their review to take special steps to provide for a habitat that, hopefully, will not make these endangered species extinct, but to make them a part of the future of Cape May County.

The total site is about 30 acres. Six acres of the site is going to be utilized for the building and the parking. There's some other land area needed for an access road and for storm water drainage, but we're only using less than half of what the potential site is. We believe that we have met the requirements that need to be necessary for the use of that site. This site was acquired by Cape May County taxpayers with Cape May County tax dollars in the late 1970s. The State of New Jersey has no funding into this site -- is adjacent to the 4-H Foundation, which is about a 15-acre site right next door,

and the Rutgers Cooperative Extension Center is also on the site. They both utilize this site currently for programs, etc.

If I could ask our County Engineer to hold up a picture of a photo here. (photo held up) This site that we're talking about, where the building is actually going to be constructed, you can see has a roadway through there now and is mostly vacant land. In the summertime, it holds 600 cars for the 4-H Fair. It's currently a parking lot. It's surrounded by wooded areas. None of the wooded areas, as proposed for the building site, would be dramatically damaged, but under the one permit we have to take some trees down to change the access road. This road that currently exists could have been utilized to gain access to the site. But based on some of the environmental concerns, we're relocating that road at an additional cost to get access to the site. But this site--

MS. COLSON: (speaking from audience) I'd like to object to a statement that's incorrect, if I'm permitted, when he's finished.

SENATOR KAVANAUGH: Have you ever watched Judge Judy? (laughter) You don't?

MS. COLSON: No. No I don't. But there is an objection.

SENATOR KAVANAUGH: You don't talk. Thank you.

MR. BEYEL: We believe that environmentally that there are some significant forces of the site that are going to be enhanced with the approval process. The educational communities in Cape May County are very supportive of this to get closer access to the residents of Cape May County for community college purposes. The State of New Jersey, the Commission on Higher Education has authorized \$15 million in funding to create the branch

campus. It's been reauthorized twice because of the delay in getting all the necessary reviews here. We have had impact studies done for traffic and environmental issues to meet the needs of the permit request and other concerns of the public.

I believe that we're able to say today that we are willing and have been, because Cape May County's number one industry is tourism. It's based on the quality and preservation of our environment, clear water, and land use. We're committed to being a good neighbor with the surrounding property owners and at the same time providing a quality facility here that is, and we believe, well thought out, well located, and I think that would be well received by those people that may have not had the opportunity to use a community college for enhancement of their careers or education because of the distance. Some people in Cape May County may have to travel to the main campus about 40 miles, which is really a long amount of time to be inconvenienced.

So we believe that this exchange, as we call it, is worthy, and we believe that we would like to continue to quickly construct this facility to better serve the underserved people of all ages in Cape May County for community college education.

Thank you, Director.

Thank you, Mr. Engineer, for the two-legged stand you have there.

(laughter)

Jeff Tittel.

JEFF TITTEL: Yes. I'll be real brief.

SENATOR KAVANAUGH: We'll take you on your word, 30 seconds.

MR. TITTEL: I'll do it quick. Fourteen years ago, we gave away Hamburg Mountain, and it took three lawsuits to get it back. In Warren County, they took open space for a county college. It never got public support. Our members, at the time, opposed it. It's been a problem ever since. Here we are again. It's the same kind of situation. This is an area that is open space. Part of the problem here is also that there's a lot of constraints on the property, and when they have to expand, they'll be back.

If we take an alternative site, or had they chosen one of the alternative sites when we testified two or three years ago, the college would be open. Instead this thing is going to drag out another couple of years. There's probably going to be litigation. I think it would be best for all of us if we look at an alternative site because it could be opened within a year, versus this may take a long time. We really need to, I think, uphold the sacred trust of open space so we don't have future Hamburg Mountains and Warren County Colleges.

Thank you.

SENATOR KAVANAUGH: Thank you, Jeff.

Now we have Richard Hluchan.

RICHARD HLUCHAN, ESQ.: Good morning, Mr. Chairman, members of the Commission. My name is Richard Hluchan. I'm the Special Environmental Counsel for the County of Cape May on this project. I'd just like to briefly respond, if I may, to some of the points that have been made today.

What I have here is a chart that's part of the record in this matter, which is a chart plotting where all the students that attend the college presently

live. (referring to chart) This is Atlantic and Cape May counties. This is the Mays Landing Campus of the college, which is in existence today. This is the proposed campus -- the site that's before you today.

And as you can see, if you just look at Cape May County, the dispersal of students, there's an awful lot down in the southern portion of the county. The reason that this location was chosen among others was that it is centrally located. It's in Cape May Court House, which is the county seat. It's centrally located to the students which will be attending, as opposed to Woodbine, which is way up here. This site is also easily accessible to the primary transportation corridors in Cape May County which are the Garden State Parkway and Route 9.

As Commissioner Campbell indicated, it has already passed muster under the stringent environmental standards of CAFRA. All the issues regarding threatened and endangered species, storm water, and so forth, have been successfully addressed. The permits have been issued. And by the way, nobody has appealed any of those permits.

As you saw in the photograph, this site could hardly be construed as pristine, as Freeholder-Director Beyel indicated. It's a parking lot, and you can see that in the photograph. With respect to Woodbine, that site was one of twenty sites that was considered and rejected. One of the reasons for rejection, other than the geographic reasons, is because they don't even own the site that they're proposing. It's owned by the Department of Human Services, and there's been no indication from the State that they'd be willing to give that property up, nor has there been any indication that if they were to give it up that the DEP would approve A-208, a water quality management

amendment, to put it into the sewer service area, both of which are critical to the success of the project.

With respect to Mr. Borden's letter, which I just received this morning when you did, I just want to make a couple of points. First of all, as to the consent order that Commissioner Campbell recounted-- Under that consent order, the DEP was not required to favorably consider a Green Acres diversion for the college site. They were only looking at the area next door where the access was to be provided. And it was the DEP that insisted that access to the college be provided within the area that we know as the 4-H tract and essentially the existing access would be expanded to serve the college as well. That was what the DEP required, and for that reason, they said they would support the diversion. That consent order doesn't really apply to the Green Acres diversion on the college site, as Commissioner Campbell previously indicated.

Secondly, Mr. Borden asks that, in the event that an approval is granted here, he is requesting that the Commission issue a stay of its decision. The reason that he's doing that is presumably because he intends to appeal to the Appellate Division, and in order to ask the Appellate Division for a stay, you first have to ask the administrative agency. One of the criteria for issuance of a stay is whether there is a significant likelihood that they will succeed in challenging any decision on the merits. I would respectfully suggest to you that there's been no showing of that for reasons set forth in the record and also for the reasons recounted by Commissioner Campbell.

I think one very important aspect of this is that many of the people who have filed letters of objection are not from Cape May County, and

indeed, have never even been to the site. When we took Commissioner Campbell down there, he was amazed. And I think his comment was, "This is what they're fighting about." You saw the picture. So I don't believe that there is a substantial likelihood of success on the merits. As Commissioner Campbell indicated, separate and apart from the consent order, they very carefully reviewed all the criteria of the regulations against this application, and in his words, "They raised the bar," held us to a very stringent standard and, indeed, imposed upon us requirements that are nowhere set forth in the regulations and nonetheless approved the project.

I don't think there's any basis for a stay, and I would respectfully ask that the Commission approve this application and deny a stay. I think I've said more than I should have already, but I'd be happy to answer any questions that you may have.

SENATOR KAVANAUGH: A question from Commissioner.

ASSEMBLYMAN DOHERTY: Thank you, Mr. Chairman.

I have a question. How was this property acquired? Could you go over that, please?

MR. HLUCHAN: The County acquired the property many years ago. I think Mr. Foster would probably have more specifics.

UNIDENTIFIED SPEAKER FROM AUDIENCE: In the mid-'70s.

ASSEMBLYMAN DOHERTY: And was it purchased from a private individual? What types of funds were used?

MR. HLUCHAN: Yes. It was not purchased with Green Acres funds. It was purchased from a private individual, correct.

ASSEMBLYMAN DOHERTY: And did this person sell it with any expectation that it was going to be maintained as open space or parkland?

MR. HLUCHAN: I think the intention was that it would be. It's adjacent to the 4-H tract and the Cape May County Park and Zoo and the expectation, although I don't believe there's a deed restriction, the expectation was, yes, that it would be as open space, parkland.

ASSEMBLYMAN DOHERTY: Did the person who sold the property, did they reduce their asking price? I know that happens in many instances because they want to ensure -- they have a good feeling that it's going to be natural open space in perpetuity. So they actually reduce their price, and that's part of the covenant that you enter into, part of the agreement. Do you have any information on that?

MR. HLUCHAN: I do not. I don't know if Dale, Mr. Foster, the County Engineer does. But I can tell you that there is no deed restriction requiring that this be maintained as open space in perpetuity. It may have been the intention that it be acquired as open space or parkland, but there is not deed restriction requiring that.

ASSEMBLYMAN DOHERTY: Thank you.

SENATOR KAVANAUGH: Thank you very much.

Just one more comment, a very brief comment, from a student. We'd like to hear-- There was one-- Okay. If you would identify yourself -- name, where you come from?

BOYD DELANZO: I'm Boyd Delanzo. I'm from Atlantic Cape Community College, and I'm a resident of Cape May County.

SENATOR KAVANAUGH: And your GPA is what?

MR. DELANZO: About 3.9. (laughter)

SENATOR KAVANAUGH: Your mother told me to ask that question.

MR. DELANZO: Oh. (laughter)

MR. McGLYNN: Who gave you the *B*? (laughter)

MR. DELANZO: English teacher.

A bus and a couple from our peer leadership -- we all decided to come here because we strongly believe in this. I prepared a statement if I could.

SENATOR KAVANAUGH: Is the school closed? Someone said the school was closed.

MR. DELANZO: No. No. We had to miss a lot of our classes to come here.

SENATOR KAVANAUGH: Somebody misspoke when they stated that. Okay. I forget, but somebody said it.

MR. DELANZO: I've prepared a statement. Is it okay if I read it?

SENATOR KAVANAUGH: If it's quick, sure.

MR. DELANZO: Okay. Today I'm here before you as a student. I am President of Phi Theta Kappa, which is an International Honor Society on our campus. I'm also part of the Peer Leadership Program and involved in student government, and I'm Vice-President of the Environmental Club.

Now I first say that I am a student -- reasons being that everything stated afterward wouldn't be possible if I were not a student. The reason that I am a student is because of the Atlantic Cape Community College. They have

given me two things in which I am eternally grateful, and that is hope and opportunity. In the spring of 2001, I graduated from Ocean City High School. My grades were bad, and I knew most of the schools that I wanted to attend would not accept me. I knew I had the potential but uncertainty plagued my mind and my soul about my future.

Atlantic Cape Community College was my last and only hope, a last chance to turn things around and be able to transfer to the school of my choice some day. Luckily, though, I had this choice and to date have maintained a 3.9 GPA and have involved myself in various school activities, as I mentioned a moment ago. This has allowed many great opportunities for me and scholarships and to be able to transfer to the school of my choice, including Ivy League schools, which I never thought would ever be a possibility. My dreams no longer seem like a dream, but more like a waiting reality.

Luckily, I say again, that I had this choice, for I know many others that do not. There are many young men and women with potential, except they have been denied this opportunity that I was given, opportunity denied because there are no substantial facilities of higher learning in Cape May County. The hour drive to the Mays Landing campus of Atlantic Cape Community College is simply just not practical for most students. Most of their used cars cannot handle all the wear and tear of the two hours of driving a day. Between gas expenses, tune-ups, tolls, and the replacing of automotive parts, it becomes very expensive to simply drive to school.

There are also many additional reasons and benefits for having a school in Cape May County. This reason should be all that is necessary

though. The government has a duty to its citizens to provide them with these services. Cape May County students should not be discriminated against and deprived of a school of higher learning because of a few acres of land that are being contested here. Precedence and procedures of the law are not always supposed to be finite, but they are supposed to serve as guides. One has to remember the purpose of the law, and that is a search of equability and of justice. That is a question that we are confronted with in this matter today.

What is justice? Is it having the minority's wishes fulfilled over the majority, or is it having the citizens of Cape May County the opportunity to achieve their dreams and beyond, to train the teachers that teach your kids in school, the nurse that takes care of your loved ones when ill, and to train the leaders of the future in every walk of life -- lawyers, doctors, businessmen, even congressman are all in our future ranks. There's a fine line between success and failure, but the only way to be successful is through hope and opportunity, and that's what I ask of you in this great hall of our State today -- to give us the opportunity to prove ourselves.

The second chance that I had should be available to all in Cape May County. Allow us to build on the ground already invested in by the State and the taxpayers of this great State. Train us to be leaders today so we may be leaders tomorrow.

Thank you.

SENATOR KAVANAUGH: Thank you very much.

Before we move to the next portion of this session, is there any comments from any of the Commissioners? (no response)

MR. McGLYNN: I just need to make the Commission aware that I received two phone calls. I received one phone call from Senator Cafiero who could not be here today, who is in support of this diversion. I also have had discussions with members of the administration, who have spoken with Assemblyman Van Drew. Unfortunately, his father passed away the night before last, and he is also in favor of this diversion. I just wanted that to be put on the record.

SENATOR KAVANAUGH: If there's no further discussion, what is the action?

CHIEF JOSEPHSON: We need to move it. I'll make that motion. Move to approve.

SENATOR KAVANAUGH: The move to -- approved.

MS. HOLZBAUR: Second.

SENATOR KAVANAUGH: Second.

Roll call, please.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Assemblyman Impreveduto wished to be voted in favor of this. He had to leave for a meeting.

Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: I have one other item, Mr. Chairman, and that is we now sit as the Judicial Retirement System. I need a motion to approve the minutes of June 24, the financial statements and the confirmation of death claims.

CHIEF JOSEPHSON: So moved.

SENATOR KENNY: Second.

MR. McGLYNN: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. McGLYNN: Deputy Treasurer Smartt.

DEPUTY TREASURER SMARTT: Yes.

MR. McGLYNN: Chief Josephson.

CHIEF JOSEPHSON: Yes.

MR. McGLYNN: Assemblyman Impreveduto wished to be voted in the affirmative.

Assemblyman Doherty.

ASSEMBLYMAN DOHERTY: Yes.

MR. McGLYNN: Senator Kenny.

SENATOR KENNY: Yes.

MR. McGLYNN: Chairman Kavanaugh.

SENATOR KAVANAUGH: Yes.

MR. McGLYNN: Thank you all for your time. We appreciate it.

SENATOR KAVANAUGH: Thank you.

(HEARING CONCLUDED)