
Commission Meeting

of

STATE HOUSE COMMISSION

LOCATION: Committee Room 6
State House Annex
Trenton, New Jersey

DATE: May 19, 2005
9:00 a.m.

MEMBERS OF COMMISSION PRESENT:

Paul T. Fader, Chair
(Representing Acting Governor Richard J. Codey)
Senator Bernard F. Kenny Jr.
Senator Walter J. Kavanaugh
Assemblyman John S. Wisniewski
Charlene M. Holzbaur
Robert L. Smartt
(Representing State Treasurer John E. McCormac)



ALSO PRESENT:

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

Meeting Recorded and Transcribed by
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Hearing Unit, State House Annex, PO 068, Trenton, New Jersey

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PAUL T. FADER (Chair): Good morning.

This is a special meeting of the State House Commission for May 19, 2005, pursuant to law. Notice of this meeting was sent out pursuant to the Open Public Meetings Act. We'll ask for a roll call.

MR. McGLYNN: Director Holzbaur?

MS. HOLZBAUR: Here.

MR. McGLYNN: Deputy Treasurer Smartt?

DEPUTY TREASURER SMARTT: Here.

MR. McGLYNN: Assemblyman Wisniewski?

ASSEMBLYMAN WISNIEWSKI: Here.

MR. McGLYNN: Senator Kavanaugh?

SENATOR KAVANAUGH: Here.

MR. McGLYNN: Chairman Fader?

MR. FADER: Here.

MR. McGLYNN: Thank you, Mr. Chairman.

We have three items on the agenda today.

Item No. 2, I will have to recuse myself from, and I'll explain why when we get to it.

The first item is approval of the March 14, 2005, State House Commission meeting minutes.

SENATOR KAVANAUGH: So moved.

ASSEMBLYMAN WISNIEWSKI: Second.

MR. McGLYNN: All in favor? (affirmative response)

Opposed? (no response)

Thank you.

Item No. 2 is the request for a stay from the New Jersey Audubon Society, Franklin Lakes Open Space Preservation, LLC. I have not--

MR. FADER: I'm sorry. Excuse me, one second. Just let the record reflect that Senator Kenny is here.

MR. McGLYNN: Thank you.

I have not been provided with any of the documentation that the rest of the Commission has in their possession. There has been litigation filed, which I am aware of, that apparently accuses me of having a conflict. I've stated previously that I do not believe I have a conflict. In fact, in the minutes of December 13, I put on the record that I provided ministerial duties to the State House Commission. I do not set the agenda.

I do not have a vote. And so the University Heights matter got on the agenda without my having any knowledge about it. But with that, I will recuse myself from this matter, and you may proceed, obviously.

MR. FADER: Okay, great. Thank you.

This a request for a stay by the New Jersey Audubon Society, Franklin Lakes Open Space Preservation, LLC, Michael Rioux, Rene Rioux, Patricia O'Rourke, Robert Payton, Amy Payton, Salvador Sclafani, and Grazia Sclafani. Based upon a prior vote of this Commission on June 21, 2004 meeting, the State House Commission voted to authorize a diversion/disposal of 0.169 acres of parkland to a private developer to provide access for a 100-unit apartment complex in partial satisfaction of the borough's affordable housing obligations.

University Heights is the owner of the adjacent 12.5 acre parcel and plans to construct approximately 100 rental housing units on the property, under a settlement negotiated with the Borough of Franklin Lakes in the context of a builder's remedy suit.

At the December 13, 2004 meeting, the State House Commission again voted in favor of this diversion/disposal as a result of a remand due to procedural irregularities. The applicants, or the requestors for the stay, here, has filed an appeal, and this has gone on to the State court system. But nonetheless, they've submitted papers to this body seeking a stay of our approval of this, going forward. And today we're going to have a hearing on that.

Is there anyone here from the parties who requested the stay and would like to speak on the matter? Please come forward and state your name. Please just -- identify your name and who you represent, if you're counsel, and then go forward with your statement.

MARIA ANDERSON, ESQ.: Good morning.

My name is Maria Anderson. I'm an attorney with Price, Meese, Shulman, and D'Arminio, and we represent the parties that are requesting the stay.

NEIL YOSKIN, ESQ.: My name is Neil Yoskin. I'm an attorney with Sokol, Behot, and Fiorenzo. We represent University Heights, LLC, which will be developing the property once it's conveyed by the borough.

DAVID OBERLANDER, ESQ.: My name is David Oberlander. I'm an attorney with Flaster/Greenberg, and I'm cocounsel for University Heights.

MR. FADER: You last two gentlemen are opposing the stay, correct?

MR. YOSKIN: We are.

MR. OBERLANDER: That's correct.

MR. FADER: Okay.

MS. ANDERSON: Okay.

Would you prefer that I stand or sit, or it doesn't matter?

MR. FADER: Whichever you prefer.

ASSEMBLYMAN WISNIEWSKI: Just make sure you hit the button so your red light is on. (referring to PA microphone)

MS. ANDERSON: The request for the stay has come to the Commission because we've appealed the State House Commission's decision to grant the borough a diversion permit. And the court rules require the stay first to be made to the administrative body that took the action, and if it's denied by the Commission, then the request can be made to the Appellate Division.

I'd just like to give the Commission a little bit of the background of the permit before I begin, in the event that there are parties present now that didn't consider the permit application. On June 10, 2004, the Commissioner of the DEP approved the diversion permit request with certain conditions. And at that time, the conditions were that \$100,000 would be paid for the diversion of this 0.169 acre of land, and University Heights would be required to build 20 affordable housing units. Then on June 17, 2004, the Commissioner changed the conditions and allowed the permit to be granted on the condition that it -- still there would be the \$100,000 payment, but that University Heights would build 15 affordable housing units and then pay for five affordable housing units, in lieu of construction, in the amount of \$35,000 for each unit.

It's important to note that, at that time, those conditions were being negotiated between the DEP and the mayor of the borough. And the mayor had agreed to those conditions unilaterally. The borough's governing body had not. On June 18, 2004, the borough's governing body adopted a resolution stating that the conditions were not endorsed by the borough; that the conditions were only agreed to by the mayor, and the borough's governing body requested that the State House Commission not vote on the application or that the application be withdrawn from its agenda.

That resolution was presented to the State House Commission on June 21, 2004. At that time, five votes were counted in favor of granting the permit, but one of the votes that were counted was by a person that wasn't present. And at that time, Edward McGlynn was present and counted the votes. We appealed the decision by the State House Commission to grant the permit. And one of the issues we raised on appeal was that Mr. McGlynn had a conflict of interest and that counting the vote of the absent member was improper.

The Attorney General's Office requested that the permit be remanded for revote by the State House Commission to cure those procedural irregularities. So a remand hearing was conducted on December 13, 2004, and Mr. McGlynn recused himself. Now, at that time, the State House Commission considered whether it would grant the permit, but it did not consider the borough's request that the application be withdrawn or that no vote be taken. So the distinction is that when Mr. McGlynn was present and there were five votes counted in favor of the permit -- one of them being absent -- the State House Commission decided to deny the borough's request to withdraw the application from the agenda. During the remand hearing, the State House Commission never considered, again, the borough's request that the application be withdrawn from the agenda. So the only time that request was made was when Mr. McGlynn was present, and there were four votes present.

Now we're asking that the State House Commission stay the decision to grant the permit to the borough for several reasons. And in order to obtain the stay, we need to demonstrate that there will be irreparable harm if the stay is denied, there's a probability of success in the appeal, and that there would be excessive hardship if the stay was denied. The irreparable harm is that if the stay is not granted or-- The type of relief that's been granted, by granting a permit, is not a money judgment. So if the stay is denied, this is not a situation where a money judgment can be reversed and the parties can be restored to their original condition.

The diversion permit allows University Heights to develop land that's currently parkland. And if the stay is denied, it can't be quantified, in money damages, what the effect would be on the surrounding parkland by allowing this portion of the land to be developed. The other matter that can't be quantified or compensated, in terms of money damages, or even being restored if the stay is denied and the appeal is successful, is the effect

that the State House's decision will have upon the public's faith and trust in our government.

And one of the issues before the Appellate Division now is that Mr. McGlynn had possessed a conflict of interest. And his participation in the process, even as a nonvoting member, should require the State House's Commission to be void. And if we're successful in that appeal and the Appellate Division does find that his presence and participation in the process renders the permit void -- after the Green Acres land is allowed to be developed by University Heights -- that nothing can be done to change that or restore the parties back to their original position.

We believe that the appeal does have a probability of success. The regulations that govern the issuance of a diversion permit require the borough to be the applicant, and it requires the borough to adopt a resolution endorsing an application for a diversion permit. At the time the State House Commission conducted their vote in June of 2004, and again during the remand hearing in December of 2004, it had a resolution from the borough's governing body expressly stating it did not endorse the application with the conditions that were agreed to by the mayor. And that resolution was from the borough's governing body asking the application be withdrawn from the State House Commission's vote.

Since the application was presented to the State House Commission in an incomplete form, because it did not have a resolution by the governing body endorsing it, the State House Commission had no authority to act on it and approve it. So we believe, based on those facts alone, there's a great probably of success.

With respect to the conflict issue that's pending before the Appellate Division, we recognize that that's a relatively new issue for the court to decide. But we've presented case law to the court that suggests that action taken by a public body, even by a nonvoting member, can be voided. There's case law where an attorney for the board possessed a conflict of interest and required the board's decision to be reversed. There is ethics rules that require a secretary for a judge to not possess a conflict of interest. And we've argued that those same rules of ethics would apply in this -- with respect to the State House Commission. And there's case law that suggests that the proctor of a civil servant exam who possessed a conflict of interest might require the examination results to be void. So we

believe that there is a probability of success on the merits of the appeal with regard to Mr. McGlynn's conflict of interest.

With respect to the last factor that the State House Commission needs to consider -- is whether denying the stay would be greater hardship than by denying it. And with respect to the hardship, the objectors have filed an appeal, as I've said, with the Appellate Division to review the State House Commission. And the public has a constitutional right to seek court review of State action. And that Appellate Division matter is the first step in the court's review. If this stay is denied, then the objectors will be denied the right to that court review before the deprivation of the Green Acres land.

And as I said before, by allowing the Green Acres land to be developed and by denying the stay, it can't be quantified in money damages what the effect of that development will have on surrounding parkland. So we believe that that constitutes excessive hardship that would support granting the stay.

In opposition to our request, the University Heights has raised an issue that it obtained an order aiding litigants rights in its Mt. Laurel action, compelling the borough to take certain action to convey the land that's the subject of the Green Acres permit to it, to allow the development to proceed. And University Heights has argued that that order renders moot our request for a stay. We've submitted law to the State House Commission that that order would not render our request moot. If anything, the stay that's granted today would be a stay of that portion of the order, or we can simply file a motion with the court and request that that portion of the order be stayed.

But the other thing that the State House Commission should be aware of is that the approvals that were granted to University Heights were conditioned upon getting this diversion permit. And if the stay is granted, then that condition is essentially not fulfilled until the appeal is resolved. So either way the stay would not -- or the order to leave litigant's rights, would not moot the request for a stay.

So for all those reasons, we request that this stay be granted.

MR. FADER: Thank you.

Are there members of the Commission that have any questions for Ms. Anderson? (no response)

There being none, Mr. Yoskin.

MR. YOSKIN: Thank you, Mr. Fader.

I'd like to address the procedural aspects first, and then the substantive aspects. And I point out that Mr. Oberlander has been counsel for University Heights in the Mt. Laurel litigation and would be the person best positioned to address that last issue regarding the significance of Judge Harris's order.

With respect to the procedural issues, Ms. Anderson opened her comments by pointing out that the Audubon Society's appeal is in the Appellate Division. And the court rules require that before they can go to the Appellate Division and ask for a stay, they have to seek a stay from any administrative agencies that are involved in the action. And in fact, they've requested a stay, not only from this Commission, but from the Department of Environmental Protection, of its decision to grant the Green Acres diversion.

Yesterday, Commissioner Campbell issued an order denying that stay request. This has significance in terms of the issue of immediate and irreparable harm, because the option of asking the Appellate Division to grant the stay still remains. With respect to the substantive issues, we take no position on the alleged conflict of interest, other than to note that Mr. McGlynn was not a voting member of the Commission, never has been. And it's our opinion, as interested bystanders, that that did not constitute a conflict. With respect to the suggestion that the approval of the two Green Acres diversion decisions were defective because the borough has not consented to the terms and conditions of the diversion, we strongly disagree with that.

The origin of the diversion application is found in the builder's remedy litigation, in which the borough signed an agreement that it would cooperate in all respects with the diversion application; and the court-approved agreement provides that the diversion application, once signed by the borough, would be pursued by University Heights, thereby saving cost to the borough. In fact, the original application includes a resolution of the borough council endorsing the application. There's been a suggestion that because the Commission received a resolution of the borough council at the June 2004 meeting that that somehow vitiates the borough's consent. I would point out that at no time has the borough appeared before this Commission to claim that it has not agreed to the terms and the conditions, nor has any member of the borough council ever appeared or been

represented. This appeal is purely a private appeal. So for that reason we feel very strongly that the actions that have been taken by the Commission were not defective. We believe there is no likelihood of prevailing on the merits. We believe there is no immediate and irreparable harm for the reason that the issue of the environmental consequences of this diversion have been vetted out in detail before Judge Harris, before DEP, and previously before the Commission.

It is for those reasons that we feel that a stay is not warranted, and we would ask the Commission to vote to deny the stay.

MR. FADER: Is there any questions from the Commission for Mr. Yoskin?

Counselor, would you like to be heard?

MR. OBERLANDER: Thank you, Mr. Fader.

I just have one or two points to supplement Mr. Yoskin's presentation. With regard to the issue of whether the borough has consented to this application, I would merely indicate that in the other three docketed proceedings -- the appeal of this proceeding, the Mt. Laurel proceeding, and there's another proceeding involving the planning board -- the borough is a party to those proceedings and has never asserted the fact in any of those proceedings that the diversion approval by this body was granted over its objection. It has just never taken that position. The only person who has asserted that position are the objectors. So the borough council did not appeal and has never objected to it. Even in the enforcement motion before Judge Harris, which resulted in the order which Mr. Yoskin referenced, they never raised the issue that the diversion was granted over their objection.

With respect to the conflict issue, I would note, as the members of the Commission will recall, you voted twice. You voted, initially, I believe, last June, and then you came back on a remand order from the Appellate Division. And it was the clear purpose of the remand order that whatever conflict issue may exist was cured by the remand. And it came back to this body without Mr. McGlynn's participation. So even if there was a conflict the first time, which we agree with Mr. McGlynn didn't exist, it was really preempted by the revote.

And the other issue, regarding the procedural issues that were raised, all indicate to you they've been fully briefed in the Appellate Division, and the Attorney General, as your counsel, has not supported

them in this regard. He apparently believes that there are no procedural issues.

And the last point I'd like to make is in irreparable harm -- there's nothing in any record that indicates that whatever construction takes place on this parcel of land, at this point, couldn't be reversed at a later date. So I think there's absolutely no showing of irreparable harm here.

Thank you.

MR. FADER: Thank you.

Just one clarification. It was my understanding that the Appellate Division didn't rule, we just remanded-- We took it back on our own. We didn't wait for the Appellate Division to rule. Is that correct?

MR. SHAUGHNESSY: My understanding is we requested the remand.

MR. FADER: Right. So we just went out of our way-- I think this body, as the State House Commission and the members of it, have gone out of their way to make sure that everything was done appropriately, because an allegation was raised about a potential conflict of interest. Although we didn't find one, we brought it back, had another full hearing without Mr. McGlynn's involvement at all, and went forward with that.

MR. OBERLANDER: The remand has genesis in this body. But rather than just taking it, you applied, through the Attorney General -- you applied to the Appellate Division for a remand on an emergency basis, a short-term basis. And the Appellate Division reviewed the Attorney General's motion and then ordered the remand. So it was at your request, but it went through the Appellate Division, and there is an Appellate Division order directing a remand.

MR. FADER: Yes. I'm sorry. I just wanted to make the record clear that it was this body who went out of its way to make sure--

MR. OBERLANDER: Absolutely.

MR. FADER: --that this was an open process, that this was done properly, and that no one could have any concerns about how the vote took place to resolve any question with respect to Mr. McGlynn. And I think that's what's happening again here today. This is a unique situation for a request for a stay to come to this body. Once again, this body is determined to make this process as open and public as it could possibly be to hear your application on the stay, rather than to just do it on the papers.

That being said, is there any questions by any members of the Commission?

ASSEMBLYMAN WISNIEWSKI: Yes, Mr. Chairman.

Ms. Anderson, just a brief question.

There's an order by Judge Harris directing the borough to convey title to the property we're talking about. Has that order been modified or changed in any way?

MS. ANDERSON: It has not. We appeared on that motion and advised the court that our request for a stay had been filed and was pending. And the court indicated that until the stay was entered, he had to act on the motion that was before him. So he entered the order. But it's my understanding, based on the law, that it wouldn't render our requests for a stay moot. There would simply have to be another-- If the stay is granted, there would be a motion again before Judge Harris advising of the stay. And then an order would have to be entered modifying his prior order.

ASSEMBLYMAN WISNIEWSKI: But the Judge entered that order understanding that there was a request that this body stay its prior decision?

MS. ANDERSON: He was aware that we had filed a request for a stay and that it was pending. But unless it had been granted, he couldn't withhold his decision while it was pending.

ASSEMBLYMAN WISNIEWSKI: Okay. Thank you.

MR. FADER: Are there any other questions of members of this body? (no response)

There being none, I'd ask our counsel--

Thank you all for your comments and presentations.

Is there anybody here from the DEP, or anyone who would like to--

John Flynn, are you here? All right. Please come forward.

Thank you, all. You can take your seats.

J O H N F L Y N N: Good morning.

The Department of Environmental--

ASSEMBLYMAN WISNIEWSKI: Just hit the button so your red light's on. (referring to PA microphone)

MR. FLYNN: Okay.

I'm John Flynn. I'm the Administrator of the Department of Environmental Protection, the Green Acres Program, here representing the Department of Environmental Protection.

RACHEL HOROWITZ, ESQ.: Rachel Horowitz, Deputy Attorney General, and I'm representing the Department of Environmental Protection and the State House Commission in their proceeding before the Appellate Division.

MR. FLYNN: Thank you.

The Department of Environmental Protection has determined that no stay is warranted in this matter. The diversion plan was approved by the borough. And at that time, we did have a resolution from the borough supporting that diversion plan. The application met the Department of Environmental Protection's regulatory criteria for disposal and compensation. We determined the disposal of the encumbered land would provide a significant public benefit.

All environmental permits for this project have been issued by the Department of Environmental Protection. And therefore, the Department concluded that there will be no irreparable harm/injury to the environment. And the interested parties are not likely to succeed on the merits.

MR. FADER: Any questions of Mr. Flynn by members of the Commission? (no response)

There being none, thank you very much.

MR. FLYNN: Thank you.

MR. FADER: Thank you.

Counselor, do you have anything?

MS. HOROWITZ: The only thing I would like to add is with respect to the procedural issues. There was a motion by the objectors, made to the Appellate Division, to supplement the record with respect to the deposition of Mr. McGlynn and to extend their time to file their final brief. And our office filed opposition to that, pointing out that, even assuming there was a conflict -- the procedural irregularities that were alleged-- Based on that allegation, just to make sure that there would be no question -- or about that -- the remand was requested. The remand was granted. The matter was revoted on, and there's absolutely-- Therefore, we took the position: no basis to hold this up any further.

The State House Commission, by statute, is the body that is supposed to act on diversion applications along with the Department of Environmental Protection. And clearly, the position we took was clear that the Commission has to be allowed to do that. So it clearly needs to be allowed to address procedural irregularities, cure them. That's what the remand was sought for, and consequently, now, the process should continue to move forward.

MR. FADER: Thank you very much.

Any questions for counsel? (no response)

Being none, thank you both.

Before we have a vote on the matter, I'm just going to turn to counsel. I think this is a unique application, because it really deals with procedural matters. And I want to make the record clear from our counsel point of view. Because I think one of the statements that confused me, that Ms. Anderson made before, was that -- what would happen if this stay was denied? Now, it's my understanding, having clerked in the Appellate Division, that once you come before this body for a final order, whether the stay is granted or denied, once that's done, then they have the ability to go to the courts and seek the stay, based upon the legal action.

MR. SHAUGHNESSY: Yes, Mr. Fader.

MR. FADER: So even if we deny that stay, their redress is, therefore, in the court system, where they are already. And they're just doing this procedurally to get over that hurdle so they can go back.

MR. SHAUGHNESSY: That's correct.

MR. FADER: Could you just give your comments on the legal aspects of this for the Commission?

MR. SHAUGHNESSY: Well, the Commission is well familiar with this matter, having considered the diversion request twice before. In June of 2004, the State House Commission voted to approve this Green Acres diversion at the recommendation of the DEP Commissioner. An appeal followed, which we've heard a lot about, and is pending in the Appellate Division, presently. There was a remand to the State House Commission again, as discussed, and the matter was reconsidered and revoted upon. And the diversion was again approved.

The matter then, of course, returned to the Appellate Division, where that's pending and there's exclusive jurisdiction. Recently, a request for stay has come about, both to the State House Commission and the

Commissioner of the DEP. We've heard today, in front of the State House Commission -- is the order denying the request for stay by the Commissioner.

However, just from a legal perspective, a person requesting, an entity -- a person requesting a stay has to prove, at least, four things. The movement must demonstrate that there's a reasonable probability of success on the merits; the movement will also suffer irreparable harm or injury; number three, the opposing party -- here, University Heights and other opposers -- must -- will not be substantially harmed; and there must be public interest being served by the stay. Suffice it to say that our office is representing both the State House Commission and the DEP in this appeal. Our office is defending the appeal, seeking to uphold this diversion request, and correspondingly, we believe that at this juncture a stay would be inappropriate by the State House Commission.

MR. FADER: Thank you, counselor.

With that being said, we held this hearing again, as I said earlier, just to have it as open affair as we possibly can. I think we voted twice on this matter. This, in my view, is a matter that is appropriately in the court system, and this is just a procedural action on the application for a stay. The DEP has already ruled against the stay.

And with that being said, I'd like to have a -- call for a motion?

ASSEMBLYMAN WISNIEWSKI: Mr. Chairman, I make a motion that we deny the stay.

MR. FADER: Is there a second?

DEPUTY TREASURER SMARTT: Second.

MR. FADER: Okay.

Could you do a roll call vote, please, Mr. Shaughnessy?

MR. SHAUGHNESSY: Yes, of course.

Call for a vote to deny the request for a stay:

Mr. Fader?

MR. FADER: Yes.

MR. SHAUGHNESSY: Mr. Smartt?

DEPUTY TREASURER SMARTT: Yes.

MR. SHAUGHNESSY: Ms. Holzbaur?

MS. HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Kenny?

SENATOR KENNY: Yes.

MR. SHAUGHNESSY: Senator Kavanaugh?

SENATOR KAVANAUGH: Yes.

MR. SHAUGHNESSY: Assemblyman Wisniewski?

ASSEMBLYMAN WISNIEWSKI: Yes.

MR. SHAUGHNESSY: All in favor. It unanimously passes.

The stay is denied.

MR. FADER: Thank you very much.

Can someone find Mr. McGlynn and tell him he's welcome back in the room? (laughter)

MR. McGLYNN: You've concluded that matter, Item No. 2, I assume?

MR. FADER: Yes, we've concluded completely.

MR. McGLYNN: Thank you.

Senator, how are you?

SENATOR KENNY: Fine.

MR. McGLYNN: We now turn, in our capacity as trustees of the Judicial Retirement System-- I wonder, Mr. Gorman, you want to come up, if you would, and just explain very quickly what we're doing here?

Now, first off, we need to approve the minutes of the meeting held on March 14 of 2005.

ASSEMBLYMAN WISNIEWSKI: So moved.

SENATOR KAVANAUGH: Second.

MR. McGLYNN: All in favor? (affirmative response)

Opposed? (no response)

Okay. We considered the matter -- that's Item B -- at our previous meeting and held it until this meeting. So just give us a quick update as to what transpired.

P E T E R J. G O R M A N: Okay. The last meeting action was postponed because we didn't know the exact increase. We were asking a proposed acceptance of a rate increase of less than 20 percent. They did finalize it. It is now a 9 percent increase in the voluntary contributory insurance.

MR. McGLYNN: Okay. So we need a motion to approve the 9 percent group term life increase--

MR. GORMAN: Right.

MR. McGLYNN: --correct?

SENATOR KAVANAUGH: So moved.

ASSEMBLYMAN WISNIEWSKI: What does that cost?

MR. GORMAN: I'm sorry?

ASSEMBLYMAN WISNIEWSKI: What is the cost to that?

MR. GORMAN: In reality, it's contributory. In a sense, the individual judge will be paying. There is some slight -- with every change in statute, there is always a little bit of administrative cost.

(microphones make noise)

MR. McGLYNN: I think the question was, is there a dollar increase that a judge will have to pay as a result of this?

MR. GORMAN: I'm sorry. Who is going to pay? The State?

MR. McGLYNN: The State.

MR. GORMAN: Very slight. I wouldn't even say. If I have to say yes or no, no.

ASSEMBLYMAN WISNIEWSKI: Most of the cost is born by the individual judge.

MR. GORMAN: Born by the individual judge participating--

ASSEMBLYMAN WISNIEWSKI: Okay.

MR. GORMAN: --and it is contributory.

MR. FADER: Any other questions?

DEPUTY TREASURER SMARTT: Okay. Could you just clarify the footnote here about the circumstances under which the rates could increase? It says plus or minus 10 percent in covered lives or volume.

MR. GORMAN: Right. My understanding was that the agreement was, if there's any significant change between -- I think it's a 21-month period -- then if it goes up or down, either party can petition the other and renegotiate it upwards or downward. Honestly, the possibility-- The only way that would happen -- if there's a significant number of deaths of sitting judges. But if it does -- if the increase, or more lives are covered, or more judges are appointed in a significant number, then, yes, the cost may be negotiated up. If there's a severe number of deaths, my understanding is it could, hopefully, be renegotiated down.

DEPUTY TREASURER SMARTT: Thank you.

MR. FADER: Any other questions? (no response)

ASSEMBLYMAN WISNIEWSKI: I move the matter.

SENATOR KAVANAUGH: Second.

MR. FADER: All in favor? (affirmative response)

Opposed? (no response)

MR. McGLYNN: The motion carried.

Our next meeting has been scheduled for Monday -- our regularly quarterly meeting is for Monday, June 20, 2005. There is both a Senate session and an Assembly session on that date.

Anybody want to move to adjourn?

ASSEMBLYMAN WISNIEWSKI: Motion to adjourn.

DEPUTY TREASURER SMARTT: Second.

MR. McGLYNN: All in favor? (affirmative response)

All done.

(MEETING CONCLUDED)