

Digitized by the
New Jersey State Library

COMMITTEE MEETING

before

SPECIAL NEW JERSEY HIGHWAY AUTHORITY
INVESTIGATION COMMITTEE

Testimony concerning the circumstances surrounding the
decision of the New Jersey Highway Authority to increase
tolls on the Garden State Parkway

March 24, 1988
Room 424
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE PRESENT:

Senator Gabriel M. Ambrosio, Chairman
Senator Christopher J. Jackman, Vice Chairman
Senator John A. Lynch
Senator Donald T. DiFrancesco
Senator John H. Dorsey
Senator Henry P. McNamara

ALSO PRESENT:

E. Joan Oliver
Office of Legislative Services
Aide, Senate Special Highway Authority
Investigation Committee

New Jersey State Library

Meeting Recorded and Transcribed by
Office of Legislative Services
Public Information Office
Hearing Unit
State House Annex
CN 068
Trenton, New Jersey 08625

NJ
10
R628
1988L

COMMITTEE REPORT

before

NEW JERSEY HIGHWAY AUTHORITY
INVESTIGATION COMMITTEE

testimony concerning the circumstances surrounding the
collapse of the New Jersey Highway Authority to increase
sales on the Garden State Parkway

March 24, 1988
Room 424
State House Annex
Trenton, New Jersey

MEMBERS OF COMMITTEE:

- Senator Robert E. Anderson, Chairman
- Senator Christopher J. Jordan, Vice Chairman
- Senator John A. Lynch
- Senator Donald F. DiStasio
- Senator John E. Dorsey
- Senator Kelly E. Robinson

STAFF:

- E. Jean Oliver
- Office of Legislative Services
- Aide, Senate Highway Authority
- Investigation Liaison

New Jersey State Library

Meeting Recorded and Transcribed by
Office of Legislative Services
Public Information Office
Meeting Call
State House Annex
CW 368
Trenton, New Jersey 08611

Gabriel M. Ambrosio
Chairman
Christopher J. Jackman
Vice Chairman



New Jersey State Legislature

**SENATE SPECIAL NEW JERSEY HIGHWAY AUTHORITY
INVESTIGATION COMMITTEE**

John A. Lynch
Lawrence S. Weiss
Ronald T. DiFrancesco
John H. Dorsey
Henry McNamara

Room 376
State House Annex, CN-068
Trenton, New Jersey 08625
Telephone: (609) 984-7381

MEMORANDUM

February 29, 1988

**TO: MEMBERS OF THE SENATE SPECIAL NEW JERSEY
HIGHWAY AUTHORITY INVESTIGATION COMMITTEE**

FROM: SENATOR GABRIEL M. AMBROSIO, CHAIRMAN

SUBJECT: COMMITTEE MEETING

(Address comments and questions to E. Joan Oliver, Committee Aide, (609) 984-7381.)

The Senate Special New Jersey Highway Authority Investigation Committee will meet on March 24, 1988, at 10 a.m., in Room 424 of the State House Annex, in Trenton, New Jersey. The following persons are expected to testify concerning the circumstances surrounding the decision of the New Jersey Highway Authority to increase tolls on the Garden State Parkway:

Judith H. Stanley, Chairman of the New Jersey Highway Authority;

George P. Zilocchi, Executive Director of the New Jersey Highway Authority;

Thomas Critchley, in-house counsel to the New Jersey Highway Authority;

Martin S. Fox, counsel to the New Jersey Highway Authority; and

Arthur D. Grossman, counsel to the New Jersey Highway Authority.

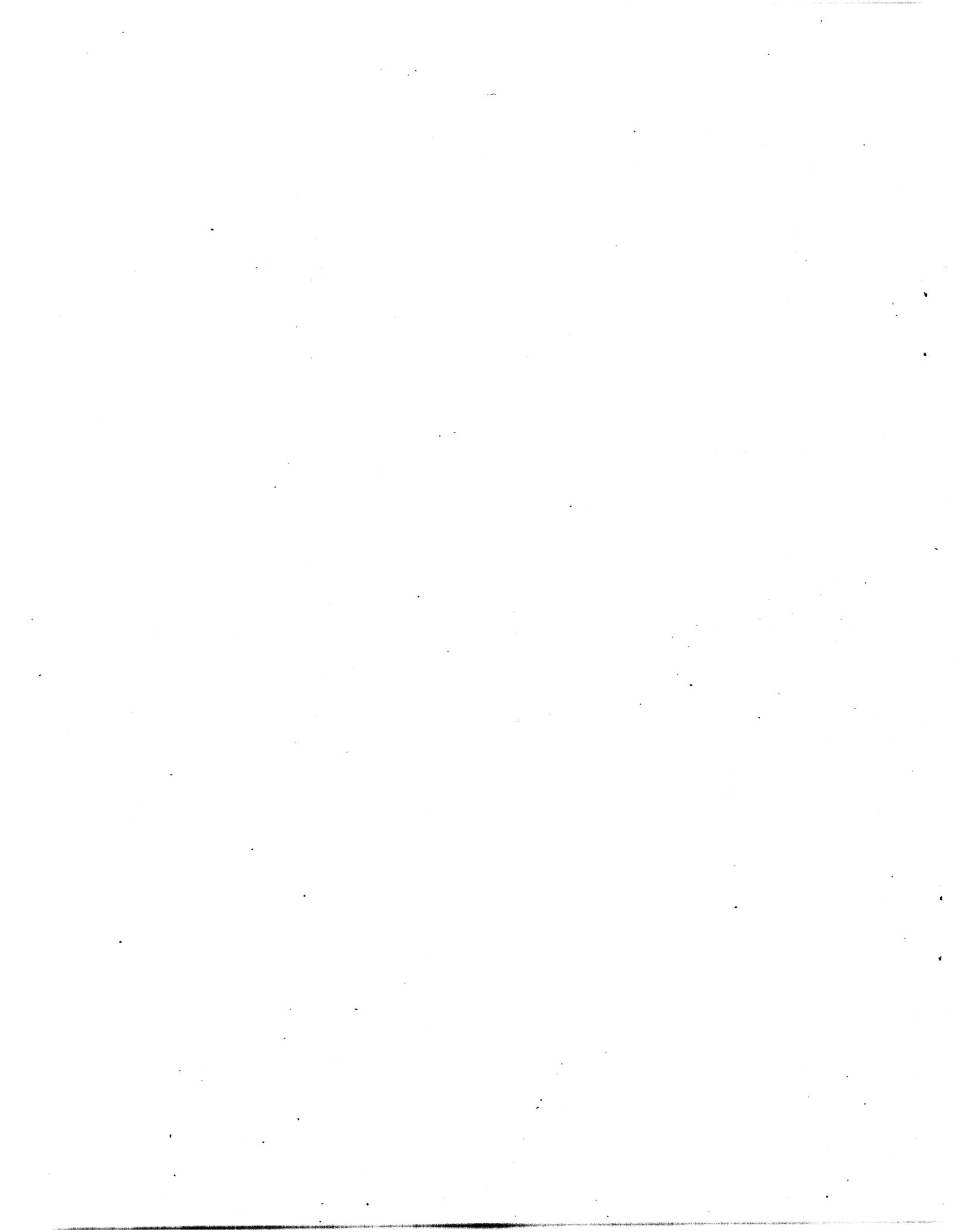


TABLE OF CONTENTS

	<u>Page</u>
Donald A. Robinson, Esq. Robinson, Wayne, Levin, Riccio, and LaSala Special Counsel to the New Jersey Highway Authority	1
Martin S. Fox, Esq. Fox and Fox Counsel to the New Jersey Highway Authority	2
Arthur D. Grossman, Esq. Fox and Fox Counsel to the New Jersey Highway Authority	20
Judith H. Stanley Chairman New Jersey Highway Authority	65

* * * * *

pmp: 1-44
di: 45-64
akv: 65-94
mjz: 95-120



SENATOR GABRIEL M. AMBROSIO (Chairman): We would like to call this meeting to order. I just want to make a few general announcements. We've had discussions with representatives from the Highway Authority, with regard to the order of today's meetings, and I have agreed to allow the order to proceed as follows: The first witness is going to be Mr. Fox, who will read a prepared statement. That's Martin S. Fox. The Committee then will question Mr. Fox and Mr. Grossman. The following witnesses will be Mr. Critchley, Chairman Stanley, and Mr. Zilocchi.

I am advised that Mr. Donald Robinson is here at the counsel table and is acting as counsel to all the witnesses. Is that right Mr. Robinson?

D O N A L D A. R O B I N S O N, E S. Q.: Yes, sir.

SENATOR AMBROSIO: If you would, Mr. Robinson, I'm just going to read a few preliminary statements into the record. And I'll just ask you just to acknowledge that this is in fact true: All the witnesses who are here are under subpoena from this Committee. Is this true?

MR. ROBINSON: Yes, sir.

SENATOR AMBROSIO: And each of the subpoenas that were sent contained a copy of the Code of Fair Procedures giving certain rights as to witnesses testifying here before this Committee?

MR. ROBINSON: Yes, they are familiar with it.

SENATOR AMBROSIO: It is also our understanding that several of the witnesses will not be completed today, but will be called back at subsequent meetings of this Committee without the necessity of issuing new subpoenas, but these subpoenas will be considered still in effect. Is that right?

MR. ROBINSON: That's no problem, whatsoever including any documents that might be needed. Just ask us for them, and we'll get them.

SENATOR AMBROSIO: All right. Are there any questions regarding the Code of Fair Procedures or the rights of the witnesses under this Committee's procedures?

MR. ROBINSON: No, sir, so long as Mr. Fox, with your permission, ~~Mr. Chairman,~~ is able to read his statement into evidence. That satisfies us under the Code of Fair Procedures.

SENATOR AMBROSIO: Thank you, Mr. Robinson. At this time, I'd like to have Mr. Fox be sworn and then you can read your statement.

M A R T I N S. F O X, E S Q.: Thank you.

SENATOR AMBROSIO: All right, would you please stand? Do you solemnly swear that the testimony you shall give in the matters now pending before this Committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

MR. FOX: I do.

SENATOR AMBROSIO: By the way, do you have copies of your statement for the rest of the members of the Committee?

MR. FOX: I do.

SENATOR AMBROSIO: Okay. Proceed, Mr. Fox.

MR. ROBINSON: Just one other housekeeping item, Mr. Chairman. Pursuant to the request of you, Mr. Chairman, for the Committee, each witness has waived the attorney client privilege; and I also communicated with all of the other Commissioners, including Commissioner Robinson and they all waived, although Commissioner Robinson is not represented by me. I understand he sent your Committee a separate letter and waived the attorney client privilege.

SENATOR AMBROSIO: That's correct.

MR. ROBINSON: So, Mr. Fox will be testifying in that area under the waiver.

SENATOR AMBROSIO: Thank you.

MR. FOX: Mr. Chairman and members of the Committee, I have been asked to present some biographical data. I will be 64 years old in June. I was born in Newark, as were my

parents. I was educated in the public schools of Newark and Belmar and graduated from Amherst College with an A.B. and Harvard Law School with a L.L.B. During World War II, I was an officer in the Army Air Force where I served four days less than three years. Chairman is able to read his statement into the record. In 1949, I joined my father in his law practice on Broad Street in Newark which was established in 1920. I have practiced on Broad Street since then. My father is 90 years old and retired. Our firm now consists of upwards of 20 lawyers with a total staff of about 45. We have remained in Newark, as a matter of principle.

When I was a child, my father was the legislative representative of the City of Newark. I spent many days -- actually, they were nights -- with him on the floor of the Assembly and the Senate and became familiar with the legislative process. I live in Millburn with my wife, who is a practicing psychologist. We have two daughters, one a psychiatrist and one who will complete her law studies in about two months.

I am a Democrat. In 1952 and 1954, I was the Democratic candidate for Congress in the old 12th Congressional District. My opponent was the father of our present Governor. I might add, I lost both times. I spend a good deal of time in community service, including the following:

I am the volunteer Chairman of the board of the Jewish Telegraphic Agency, a world-wide news gathering agency dealing with matters of Jewish interest. I am a member of the Executive Committee of the board of the New Jersey Historical Society. I am on the board of and serve as general counsel to SHARE, a statewide and Legislature supported group which engages in helping feed more than 10,000 of the poor of our State each month.

In the past, I spent 10 years as a member of New Jersey State Board of Education by appointment by Governors

Meyner and Hughes. I served in the south of our country in the summer of 1964 as a volunteer lawyer with the Southern Christian Leadership Conference, where for a short time I represented and directly dealt with Dr. Martin Luther King and a number of his associates in several court battles.

For a number of years, I was on the board of the United Way of Essex County. For three years, I served as President of the Jewish Community Federation of Essex County, a community of over 100,000 people and the largest Jewish community in New Jersey. And for a short while, I was an Assistant Essex County Prosecutor.

My firm has been general counsel to the New Jersey Highway Authority for about a dozen years. Our original appointment was made on recommendation of Governor Byrne. The legal staff of the Highway Authority consists of the following:

General Counsel: A private law firm charged with attending meetings of the Authority, generally advising the Authority, its members and employees, and conducting general litigation and negotiations.

Special Litigation Counsel: Currently Robinson, Wayne, Levin, Riccio, and LaSala, who handle special matters as assigned.

Labor Counsel: Apruzzese and McDermott, who handle all negotiations and contract matters with the numerous unions representing Parkway and Garden State Arts Center employees.

Bond Counsel: Currently Carella, Byrne, Bain, and Gilfillan, who act as bond counsel when the Authority borrows funds.

The General Attorney: Thomas J. Critchley, who is a salaried employee of the Authority and handles day-to-day legal matters.

It is my understanding that a main thrust of this Committee's investigation is to determine what changes, if any, should be made to the Open Public Meetings Act. In this

statement, I hope to be able to give you background which will assist you in framing the questions you require to elicit the information you seek.

I know that each member of the Authority has waived the lawyer-client privilege on all matters relating to the Open Public Meetings Act and to the recent proposed toll increase. Since the present controversy has arisen and until now, I have made no statement to anyone relating to the advice which I have given to my client. I believe in the importance of the lawyer-client privilege as one of the vital bulwarks of our judicial system. The privilege assures that clients may speak freely with their attorneys. In my close to 40 years of practice, I have never before been asked to testify as to how I have advised a client. I recognize that the privilege belongs to the client and not the lawyer, and that in this case, the client has waived the privilege.

Most of you have not been present at Authority meetings. I would like to set the scene for you. The open meetings of the Authority are held in a large room, the center portion of which is occupied by a huge round conference table. To the rear of this room is a much smaller room with a rectangular table at which the members of the New Jersey Highway Authority sit during closed meetings. The Chairman, Mrs. Stanley, sits at the head of the table. Mr. Zilocchi, the Executive Director, sits to her right and I to her left. The other Commissioners and my partner, Arthur D. Grossman, occupy the remaining seats around the table. Ms. Jeanne Stiefel of the Governor's Authorities Unit attends all of the meetings and sits a bit away from the table. On two occasions, James Weinstein, the head of the Governor's Authorities Unit also attended these meetings.

Frequently, staff members, consultants, and/or other attorneys are brought in to the meetings from which the general public is excluded to report on or answer questions about

various matters of Authority business. They are generally excused when that business is completed.

Agenda of both the open and closed meetings of the Authority are delivered to the Commissioners and to counsel, generally on the Monday or Tuesday before the fourth Thursday of the month, which is the usual meeting date. These agenda, and the back-up materials submitted therewith, are usually reviewed by both my partner, Arthur D. Grossman and myself. With rare exceptions, we both attend all open and closed meetings of the Authority.

It is generally Mr. Grossman's responsibility to take minutes of the closed meetings' proceedings and to report on the status of litigation and contract negotiations. My responsibility is to give such advice as is requested by the Commissioners from time to time, and to deal with compliance with the Open Public Meetings Act.

At almost every meeting, I have the Open Public Meetings Act open in front of me through all or part of the meetings. I deem it to be my responsibility to advise the Commissioners, frequently without the necessity of a request from them, if I see them taking or about to take an action which might be improper under the Open Public Meetings Act.

The Open Public Meetings Act was approved on October 21, 1975 and took effect on January 9, 1976. The first Authority closed session under the Act was on January 22, 1976. The only present Commissioner who was then a Commissioner was Lionel M. Levey. The other then Commissioners were Salvatore A. Bontempo, John B. Townsend, Julian Hoffman, Charles E. Starkey, and Robert J. Jablonski. There was one vacancy. Before the Act became effective, there were many discussions about the method of compliance. I shall deal with the subjects of the timing of meetings, minutes, and notice, using these discussions as a point of departure:

Timing of meetings: The pre-Act caucus meetings of

the Authority had always been held immediately prior to the public meetings. The Commissioners wished to continue to operate in this manner, rather than convening the open meetings, announcing the closed meetings and its agenda and entering the closed meetings. Their reasons were twofold. First, the Authority's meetings were covered by representatives of the press and the public. The length of the closed meetings could not be estimated. If the public meeting were to be started first and then postponed while the closed meeting took place, the press and public would have to sit around until the public meeting was reconvened. It was felt that this was unfair to them and further, would put undue pressure on the Commissioners to hurry through the closed meeting.

In addition, many Parkway employees attend and participate in the public meetings. Were the closed meeting held early and the open meetings scheduled for a fixed time, the employees could spend the early morning hours at their regular duties rather than waiting around for the open meeting to begin.

The then Commissioners were then advised of the provisions of N.J.S.A. 10:4-13. I advised them in late 1975 that the preferable procedure would be to convene the open meetings, pass the appropriate resolution, and adjourn to a closed session. I also told them that a resolution at the end of each public meeting stating that a closed meeting would be held immediately prior to the next open meeting at which matters allowed by 10:4-12 would be discussed, would be sufficient to comply with the intent of the notice provisions of the Act. The Commissioner opted for the latter course and, until December 1987 -- a few months ago, operated in this fashion.

The subject of this format was discussed from time to time over the years. I believe that I told each newly

appointed Commissioner and each new Executive Director that our procedures on this point were not precisely in conformity with the statute. Authority employees were at their desks instead of waiting for the open meeting to begin and the press and public never had to arrive until the hours of the public meeting. Announcement was made immediately after each closed meeting as to the general nature of the matters discussed and those matters which could be disclosed were disclosed by me and on some occasions by the Chairman.

In the light of cases subsequently decided holding that strict compliance rather than substantial compliance is required under the Act, I am not satisfied that strict compliance would have been better served, had the early procedures been changed. Since December 1987, the Authority has adopted the more conventional format of convening the open meeting and adopting a resolution in strict conformity with the Act before adjourning to a meeting from which the public is excluded. Although I believe the Authority's original procedure was practical, convenient, and money saving and that no harm was suffered by reason of its use, I accept responsibility for not more strongly advising the Authority earlier to change to the present practice.

Minutes: N.J.S.A. 10:4-14 requires that a public body shall keep reasonably comprehensible minutes of meetings. The introductory statement to the Assembly bills states, "Minutes are not intended to be verbatim or even to include every comment made." Handwritten minutes are acceptable.

Prior to the effective date of the Act, the Commissioners determined that they preferred that the minutes be written and retained by me and not submitted to them for approval. The pamphlet published by the New Jersey Department of Law and Public Safety, Division of Law entitled, "The Open Public Meetings Act," -- it was 1986 -- confirms this practice on page 19 where it is stated, "Minutes should be made promptly

available to the public and need not be formally approved by the public body before distribution to the public." For the last seven or eight years, the minutes have been written by Mr. Grossman, except for the few occasions where he was not present and I substituted for him.

In late April 1986, Ms. Jean Bogel of the Governor's office requested that we send copies of the minutes of the meetings from which the public is excluded to the Governor's office. Starting with the minutes of the May, 1986 meeting and for each meeting since then, the minutes have been sent to the Governor's office within a few days after the meetings. Copies are also sent to Mr. George Zilocchi, who advises me that they are kept on file in his office.

In July 1986, a request was made by Ms. Jeanne Stiefel of the Governor's Authorities Unit, who had been attending the Authority's open meetings, that she be permitted to attend the closed sessions. The request was granted and each closed session commencing with August 1986, with the exception of the February 1988 meeting, has been attended by Ms. Stiefel, who on two occasions has been accompanied by her superior, Mr. James Weinstein.

Our minutes have been comprehensive and kept in full conformity with the letter and spirit of the Act. They have at all times been available to the public as required by the Act. No comment concerning the closed meeting minutes has ever, so far as I know, been received from anyone in the Governor's office.

While I am aware that there have been statements made that some portions of the minutes are in error, I am satisfied that they fully report the events which transpired at the closed meetings of the Authority. Upon word by word analysis, I find the use of a few inartful words, but in general, I stand on the accuracy of the minutes as kept. Obviously, there would be no reason for either Mr. Grossman or myself to report any of the meetings' events inaccurately.

In recent months, the Authority has determined to transcribe the closed meetings as a backup to the minutes which are taken as heretofore. The minutes are now submitted to the Authority at a subsequent meeting for consideration and approval.

I believe it would be reasonable for this Committee to consider recommending that the Open Public Meetings Act be amended to require verbatim transcription and approval of written minutes at subsequent meetings. Although cost factors should probably be taken into account.

Notice: Compliance with N.J.S.A. 10:4-18 and 19 dealing with giving of adequate notice as defined in N.J.S.A. 10:4-8d, and the giving of notice of corrective actions as required in N.J.S.A. 10:4-15 has always been the duty of the General Attorney, that's Mr. Critchley, subject to oversight by my firm. We believe that Authority has always been in compliance and that the statutory scheme, as it so exists, adequately provides public notice.

Up to this point, I've been talking about the purely procedural aspects of the Open Public Meetings Act, related to calling of closed meetings, minutes, and notice. To my mind, the guts of the Act is in N.J.S.A 10:4-12 which contains the listing of those items which may be discussed at meetings from which the public is excluded. Since this area has been at the center of controversy swirling about the Highway Authority in recent months, I shall deal with it at some length. At the outset there are two points which I wish to emphasize.

First, I am and always have been fully aware of the fact that discussion of toll changes may not be engaged in at meetings from which the public is excluded. I have consistently so advised the Authority. I have also advised the Authority that if matters relating to toll changes are ancillary to discussions which may be held at closed sessions, these matters may then be discussed.

Secondly, all references to tolls at closed meetings were made in the presence of one or two representatives from the Governor's office and, as I have said, copies of the minutes relating to such meetings were promptly forwarded to the Governor's office.

In the 12 or 13 years my firm has represented the Authority, the subject of tolls has, very properly, been subject to constant scrutiny by the staff and Commissioners. All bond resolutions adopted by the Authority since its inception have contained toll covenants. These covenants provide, in substance, that if the ratio of earnings to debt service falls below a certain ratio, usually 1.2 to 1, the Authority will take steps to increase its tolls. The bond resolutions and covenants further provide that reviews of forecasts as to revenues and expenses must be made and traffic studies continued on an ongoing basis. Regular reports relating to compliance with the various bond covenants be made to the public. At each public meeting, a report is given as to debt service ratio.

In 1984 and 1986, the Authority issued bonds. In each case, the statements issued to the public in conjunction with these bonds forecast that there would be toll increases in 1987 or 1988. In 1984, the Governor proposed and the Legislature adopted a comprehensive transportation funding proposal. One of the major elements of this proposal was a payment by the New Jersey Highway Authority to the State of \$10 million per year. During the period between the Governor's proposal and the creation of the Transportation Trust Fund Authority, considerable public controversy arose on the subject of Parkway tolls. Some examples:

In The Sunday Star-Ledger of March 11, 1984, then Assembly Speaker Alan Karcher and then Assembly Transportation Committee Chairman, Wayne Bryant are referred to as having said, "they have evidence that a 10 cent toll increase on the

Parkway to be implemented in 1987 or 1989, has been a subject of study for at least two months."

The same article quotes Chairman Judith Stanley as saying when asked whether the proposed contributions of \$10 million a year would result in a toll increase, "I don't see how we could support it without one." The article continues, and I quote again, "The remarks prompted Kean to vow to veto any toll increase related to the State program."

In The Star-Ledger of March 14, three days later, 1984, references were made to studies showing that within four or five years, tolls would have to be increased, or the capital programs scaled back. In the same paper four days later, an anonymous Authority official is quoted as saying, "The Parkway was planning a toll increase in 1987."

In a different article in the same paper on the same day, Senator John Russo is quoted as saying, "When I first heard of the plans to tap the toll road surplus revenues, I said, 'great.' My first reaction was to praise it. But then I heard the Garden State Parkway Commissioners said it could mean a toll increase. And there is no way we want to sit still for a toll increase."

In The Star-Ledger of March 22, 1984, former Senator and then Commissioner J. Edward Crabel is quoted as saying, "There is no question that in the next two to two and half years we are going to have a toll increase to handle the situation."

Obviously, the need for a toll increase is not something which arises suddenly. As the immediacy of the need increases, the amount of discussion and preparation accelerates. During the spring and summer of 1986, the Authority was deep in negotiations with the Department of Transportation to take over the three State-owned sections of the Garden State Parkway. For many years there had been regular attempts to achieve the transfer of the State-owned

sections to the Authority. It was finally brought to fruition by reason of the foresight of Transportation Commissioner Gluck, and the present Authority Commissioners under the leadership of Chairman Stanley. Among the benefits to the public are: ~~year~~ would result in a toll increase. "I don't see

State highway expenditures will be reduced so as to enable funds previously devoted to the Parkway to be spent elsewhere. The Parkway would be maintained as one unit and at a very high level. Funds could be made available through tolls to cause necessary improvement to be made on the former five State-owned sections.

When the agenda for the August 28, 1986 closed meeting was prepared, the first two items were listed as having to do with the State-owned sections and toll rate adjustments. At the closed meeting, I verbally advised the Commissioners that they could not then discuss the toll item. The question came up of whether tolls could be discussed as part of the consideration of the State-owned sections matter. I advised the Commissioners that such a discussion could be had to the extent that it was ancillary to the main question.

There were references to matters relating to tolls at the closed meetings held on October 30 and December 18, 1986 and January 22, February 26, March 26, April 23, and August 27, 1987. In each case, the toll discussions were ancillary to discussions relating to the State-owned sections for a short-term financing which was completed in early September, 1987. I believe that the contract with the State relating to the State-owned sections was a proper subject of discussion at a closed meeting under N.J.S.A. 10:4-12(7).

Similarly, the matters relating to the short-term financing may be discussed at closed sessions under the same exception. There are numerous contracts involved in financings, and public disclosure prior to the completion of negotiations would seriously compromise the ability of the Authority to borrow on favorable terms and at lowest cost.

Since Governor Kean left the Authority to assume the Governor's office, I have had no discussion with him on Authority business. However, there is no doubt in my mind that since the events of 1984 relating to the State payments contracts, the members of the Authority have believed that the subject of toll increases could not be brought up for approval without the prior express consent of the Governor. The reports of Mrs. Stanley at the January, 1987 meeting and Mr. Chester Johnson at the March, 1987 meeting reinforce this conviction. Of course, I have absolutely no reason to believe that the Governor wanted toll increase related matters to be discussed at closed meetings.

It is also my observations that toll matters were generally the province of staff members and outside consultants until such time as fully developed proposals were ready to be presented to the Governor and the public prior to the holding of the mandated public hearings. The subject of tolls came up in conjunction with matters such as the State payments, the takeover of the State sections, and the short-term financing by way of status reports to enable the Commissioners to ascertain that expenditures and borrowing could proceed without running afoul of financial planning.

Highway Authority presently has as members Chairman Stanley, who sits as a member of other governmental agencies subject to the Sunshine Law; J.P. Miele, a highly skilled lawyer; Julian Robinson, who has for a generation been active in government and political affairs; and George Buckwald, who is currently a freeholder and who has many years of hands on governmental experience.

The present Executive Director was the mayor of a major municipality. In the past, the Authority has had as members legislators, for example, Governor Kean; Mayor Frank Rodgers; and former Secretary of State Edward Crabel; and lawyers, for example Charles Starkey. Most of the

Commissioners have had considerable political experience and did not require constant prompting as to how to comply with the Open Public Meetings Act.

At the October 22, 1987 closed meeting, an item on the agenda was entitled, "Finances." Messrs. Chester Johnson, Jerry Nielsten, and Dick Ailes were present at the closed meeting. Mr. Nielsten began discussing proposed toll rate adjustments. Incidentally, to my recollections, this is the first time that the specifics of a proposed toll rate increase were discussed at any Authority meeting. I then discussed with the Commissioners the propriety of listening to or considering the subject at a closed meeting. My memory is that I advised the Commissioners that, since tolls were being discussed other than ancillary to a matter which might be discussed under N.J.S.A. 10:40-12, the discussions seemed out of order.

I believe I was asked if there was any way in which the discussion could be continued? I responded that N.J.S.A. 10:4-12(6) offers a possible, though tenuous, argument that would allow the discussion to be continued. This section of the statute allows discussion of "any tactics or techniques utilized in protecting the safety and property of the public, provided that their disclosure could impair such protection."

The rationale was that, if the Commissioners felt that considering toll increases was essential to the safety of the public and if they felt that disclosure of the pendency of discussions relating to tolls could hinder the possible increase of tolls and thus impair the Authority's program for improving the safety of the road, there was a possible justification under the public safety exemptions set forth in the statute. My recollection is that after the presentation of this rationale, the Commissioners continued with the discussion.

The minutes of the October 22 closed meeting show that the Commissioners agreed the toll matter would "likely be presented" at the November meeting. In order for this to take

place, it was necessary that a prior approval letter be obtained from the Governor before the November 19 public meeting. There were discussions with the Governor's office about obtaining this letter. I personally engaged in several telephone discussions with Mr. James Weinstein of the Authorities Unit relating to the terms of the prior approval letter.

Mr. Weinstein led me to believe that a prior approval letter would likely be delivered in time for the November 19 meeting. The Governor had also been requested to waive the veto period concerning the resolutions as to the toll increase. This was requested since having to wait out the veto period would have delayed publication in "The Register" and possibly delayed the date on which increased tolls could be put into effect.

When the November 19, 1987 closed meeting was begun, no representative of the Governor's office was present. Ms. Jeanne Stiefel arrived approximately a half hour into the meeting and handed me a folder with the Governor's waiver of veto letter with respect to the proposed amendment to the toll regulations and the prior approval letter signed by the Governor and the Treasurer.

As I read those letters, I explained the contents thereof to the Commissioners and told them that it was now possible for them to proceed with the amendment of their toll regulations at the public meetings. This item was listed on the agenda for the public meeting. At this point, the Authority embarked upon a course of conduct which, in retrospect, constituted a serious public relations blunder. At the November 19 open meeting, a brief presentation was made by Mr. Critchley to the effect that the Authority's staff and consultants had concluded that there should be a toll increase. On motion made by Commissioner Robinson and seconded by Commissioner Levey, the increase was unanimously adopted.

The Chairman stated that there would be a press conference relating to the toll increase at a nearby hotel shortly after the meeting. The news of the press conference had been released prior to the meetings. Large numbers of press and other media representatives were present at the meeting and at the press conference. It was clear that all knew that the subject of tolls was on the agenda.

Instead of setting forth the underlying facts relating to the necessity for the toll increase at the public meeting, the presentations was saved for the press conference. The furor over procedures relating to the toll increase began. Its intensity was a surprise to all of us involved in the process.

My impression is that the reason for this surprise was that a large number of well-intentioned people from the Governor and his staff, to the Authority and its staff and consultants, had been expending their best efforts to deal with the financial situation of the Parkway in what all considered the best interests of the public. There was a general feeling that a reasonable solution had been arrived at. People had worked hard and had done their jobs well. The outcry raised by the press, the public and many officials caused an immediate reexamination of recent events by Parkway officials. Within hours there were demands for Authority minutes which were promptly met.

On Sunday, November 22, 1987, there was a conference at Chairman Stanley's house attended by Mrs. Stanley, Commissioner Sambol, Mr. Zilocchi, counsel, and public relations advisors. I advised the Commissioners present that the actions taken at the October closed session were, in my opinion, seriously vulnerable under the Open Public Meetings Act. I further advised them that, in the light of objections which were beginning to surface as to all of the discussions held relating to tolls since August 1986, it would be best for the Authority to take corrective action as allowed in

accordance with the provisions of N.J.S.A. 10:4-15(a).

I explained to them that the statute wisely allowed corrective action to be taken by acting de novo at a public meeting held in conformity with the Act. After a good deal of discussion, it was determined that a special meeting should be called on November 30, 1987 to take the appropriate corrective action. This was done. Considerable attention was paid by members of my firm and the staff of the Authority to compliance with the statute as to this corrective action. It is my belief that the November 30 meeting corrected any Open Public Meetings Act deficiencies which might affect any toll increase action.

A few further words on possible changes to the Open Public Meetings Act. There is always the possibility that matters, which if discussed alone should be discussed at open meetings, will be discussed during closed meetings in conjunction with matters which are properly discussed at the closed meetings.

If the Legislature determines that this is not acceptable, the statute might be amended to provide that in such events, there shall be immediate disclosure of those aspects of the closed meeting discussions which relate to matters other than those exempt under the statute. In the alternative, consideration might be given to an express requirement that matters relating to increases in tolls be discussed only at public meetings.

It is my belief that the provisions of N.J.S.A. 10:4-15 relating to remedial action is extremely important and should not be substantially changed. If a public body were unable to correct its mistakes, the public could very well be penalized in making it impossible for sound actions to be taken by reason of procedural defects.

All of us involved in the toll process have been guilty of mistakes. As far as I have been able to see, no one has acted venally or with a motive of self-interest. The

Highway Authority Commissioners are a remarkably dedicated, able, and high-minded group of citizens. They donate enormous amounts of time and energy to the Parkway. They believe it to be an outstanding road, if not the best in the country, noted for its beauty, cleanliness, safety, and excellent state of repair. The Commissioners and staff have all suffered from the public furor relating to the ill-fated 1987 toll proposals. All seem chasten and willing and anxious to do what is necessary to proceed with the public business.

I hope you will not see me as impinging upon your prerogatives if I plead that you devote yourselves to the lessons to be learned from the past and its mistakes rather than condemning further the errors in judgment which have been the subject of so much scrutiny and comment. Thank you.

SENATOR AMBROSIO: Mr. Fox, before I begin questioning, I'd just like to advise you that we're going to need some extra copies of that statement if you have them available.

MR. ROBINSON: You want some copies?

SENATOR AMBROSIO: Yes.

MR. ROBINSON: How many do you want, Senator?

SENATOR AMBROSIO: Well, I think we're going to need a few more. Everybody have one?

SENATOR JACKMAN: Yeah, I got one.

SENATOR AMBROSIO: I might begin by saying that on page three of your statement, you indicate that it's your understanding that the main thrust of this Committee's investigation is to determine what if any changes should be made to the Open Public Meetings Act.

MR. FOX: A main thrust.

SENATOR AMBROSIO: Well, that is not the main thrust.

MR. FOX: No. I didn't say that. I said, "A main thrust."

SENATOR AMBROSIO: Clearly this Committee's jurisdiction goes far beyond that. I just wanted the record to be clear that we intend to go beyond that question.

MR. FOX: I understand that, Chairman, and I hope I didn't give that impression. Safety and excellent state of repair.

SENATOR AMBROSIO: I wish at this time if Mr. Grossman would be sworn in because we might want to direct questions to either one of you. This way, we can do it and maybe save some time. Mr. Grossman, do you solemnly swear that the testimony you shall give in the matters now pending before this Committee shall be the truth, the whole truth, and nothing but the truth, so help you God?

ARTHUR D. GROSSMAN, ESQ.: I do.

SENATOR AMBROSIO: Mr. Fox, I'd like to just cover a few of the points that you've made in your statement initially referring to page five of your statement in which you say, "I deem it my responsibility to advise the Commissioners, frequently without the necessity of a request from them, if I see them taking or about to take any actions which might be improper under the Open Public Meetings Act." At any time that you exercised that role, did you ever do it in writing?

MR. FOX: No, sir. And the reason is simply that I was never asked for an opinion. I have given many formal opinions to the Authority on other matters. But things that come up during meetings are generally subjected to the lawyer's time and privilege and can't be put in the minutes, and you don't have time to do it right if you can do it on the spot. But the answer is that I have never given, during meetings, opinions under the Open Public Meetings Act. I believe on two occasions, once in 1975 or 1976, once in either late '87 or early '88, I provided them with summaries of the Act on specific request.

SENATOR AMBROSIO: That's what I was getting to, Mr. Fox. If you have given them written opinions or summaries or

any directions with regard to the Open Public Meetings Act, we'd like to have copies of those documents.

MR. FOX: I believe that there are two. And as I said one was before the Act and one-- I'll get them for you.

SENATOR AMBROSIO: You'll supply the Committee with those documents?

MR. FOX: Certainly.

SENATOR AMBROSIO: Thank you. On page seven, you indicate that you believe you told each newly appointed Commissioner and each new Executive Director that your procedures on this point were not precisely in conformity with the statute. Is that right?

MR. FOX: Yes.

SENATOR AMBROSIO: Would you explain what you mean by not precisely in conformity with the statute.

MR. FOX: Yes. As a preliminary, I attempted to get across that in general there's a principle of law that substantial compliance is sufficient. In the early days of the Open Public Meetings Act, I believed that substantial compliance was sufficient when it was first adopted. What we were doing, was adopting a resolution at the end of the prior public meeting, which says, immediately before the next public meeting, giving the date, time, and place, that there will be a closed session at which only matters allowed to be discussed under the Open Public Meetings Act would be discussed. And it was impossible at this time, at the time the resolution was passed, to be more precise since largely they would be matters which would arise between the date of this meeting and the next meeting.

So in a real sense, we were giving the best we could give at that time, but we were not describing in detail what was going to be done.

SENATOR AMBROSIO: As the Act requires.

MR. FOX: Well, we were describing it in as much detail as we could at the time that we adopted the resolution; but we were not supplying it in full detail.

SENATOR AMBROSIO: Did any of the Commissioners ask you to try to bring the procedures of the Authority in strict compliance with the statute?

MR. FOX: On this? No. I'll tell you -- there was one instance, and I don't remember how long ago it was, but a couple of reporters came to me and said, "Hey, you guys do it different from the rest of the Authorities we see." And I said, "You're right. And if you want to make an issue of it, clearly, it can be changed. But as a practical matter, what that will mean is that you will be sitting around for an extra two hours at every Authority meeting, cooling your heels, while we have the closed meeting."

Incidentally, why I believe that was substantial compliance, was that all you say was when you adopt the resolutions as to what the matters will be, is it's a matter of contract, or it's-- You know, you specifically relate to which of the exceptions under section 7 -- I'm sorry -- I think it's 12, that you're acting. So, I really believed it was substantial compliance. But what I say in here is cases were decided, saying that substantial compliance was not enough.

SENATOR AMBROSIO: Mr. Fox, I don't want to get into a debate with you about the Open Public Meetings Act, because I disagree with your interpretation of it. But the question I asked was, did any Commissioner ever ask you to amend your procedures to be more in compliance with the Act?

MR. FOX: No.

SENATOR AMBROSIO: You say on page eight, that you saw the procedures that you had as causing no harm by reason of their use. The fact that the public was excluded from deliberations that more properly should have been conducted in public, you don't see as a harm?

MR. FOX: I don't see that happened, because of this, Mr. Chairman. I don't believe in any sense this action caused anyone to be excluded who should have been admitted.

SENATOR AMBROSIO: Well, I'm a little confused, because in the next sentence you say that you accept responsibility for not more strongly advising the Authority earlier to change to the present practice. Now that statement implies that you had advised them earlier, but you were not strong enough in your advice.

MR. FOX: I'm sorry, it wasn't meant-- That was what I was trying to say a moment ago, and if you'll allow me I'll--

SENATOR AMBROSIO: So, the point is you've never advised them to change their practice other than up until the furor broke out?

MR. FOX: I have advised them that the practice was in substantial, but not in precise compliance with the statute. As I said, I believe I advised each new Commissioner and Executive Director who came on board. I never said you had to do it. I believe that each Commissioner knew what we were doing was not in strict compliance. And I have taken responsibility here, and I've said it, and I'll say it again, for not having more strongly so advised.

SENATOR AMBROSIO: On page 10 of your statement, you say that, "I am and always have been fully aware of the fact that discussion of toll changes may not be engaged in at meetings from which the public is excluded. I have consistently so advised the Authority."

MR. FOX: Yes, sir.

SENATOR AMBROSIO: How was that advice ever given? Was that ever given in writing?

MR. FOX: No. It was given orally.

SENATOR AMBROSIO: And how was that conveyed to them? Anytime a toll discussion came up?

New Jersey State Library

MR. FOX: No. It was done on two occasions where there was specific discussions of the matter. The first, I believe, was August, 1986 where I believe I said in my statement that when the agenda came out, one of the items was toll increases and the other was State-owned section. And at the meeting, I said that, "You can't do this. You can't talk about tolls."

Now, if in discussing the State-owned section, it is necessary for there to be some discussion relating to tolls as ancillary to the main discussion, that's okay. But toll discussions alone, no. Now, if you look at the agenda and if you look at the minutes of the meeting, you will see that there is no minute meeting which says toll increase. There's a minute that says State-owned section; and in that discussion there is indeed a discussion of tolls, which I believe to be ancillary of the discussion of the acquisition of the State-owned section.

SENATOR AMBROSIO: Can you ever perceive of a situation where toll increase would be discussed that where it is not ancillary to some other discussion? For example, a toll increase is not discussed in a vacuum; it's as a result of some financial problem, and other matters that lead to the necessity to discuss the toll increase. Isn't that true?

MR. FOX: Well, you said that you have two questions in there, and I want to be very-- The second one is absolutely true. The first one, is there ever a situation where toll increase should be discussed alone? Certainly.

SENATOR AMBROSIO: Give me an example.

MR. FOX: You can get very close to it on October 22, 1987. Now what happened there, was the subject under the agenda was finances -- and as I've said in the statement Jerry Nielsten came in. He's from Vollmer Associates, our toll advisor. And at that meeting for the first time, there was a discussion of the form of the toll increase. I believe that

was the first time I heard of the use of tokens and discounted tokens in conjunction with the proposal. Because there they were really talking about the toll increase, and it took me by surprise. Because the subject on the agenda was finances. And I didn't expect to hear about tokens and discounted tokens and then I went into what I described here.

SENATOR AMBROSIO: Well, let me just talk about that for a minute, because that was an interesting development. A discussion about tolls came up and you raised the question that this is in violation of the Act, because you can't discuss toll increases. And your statement says, "I believe I was asked if there was any way in which the discussion could be continued," indicates to me the Authority was looking for an excuse to continue talking about tolls, and they turned to you and said, "Give us a reason."

MR. FOX: Well, that's one way of saying it. The other way of saying it is that they were looking for a reason or a justification for being able to, rather than an excuse. They wanted to discuss it. There is no question.

SENATOR AMBROSIO: And that's when you came up with the theory that it was essential for safety?

MR. FOX: Yes. The statement which I have described is tenuous, and which I three days later on reflection said the meeting is-- It wasn't three days later. I'm sorry. Which I subsequently recommended had to be redone, because I thought it to be very likely in violation of the Act.

SENATOR AMBROSIO: Can I ask you who takes the minutes of your exempt meetings?

MR. FOX: Most of the time, Mr. Grossman takes them, if you're speaking of the recent years. In the early years, I took them, I believe for seven or eight years. Mr. Grossman has taken them, except for now and then, when he's on vacation, or in court, I take them or give him help.

SENATOR AMBROSIO: And are they taken

contemporaneously with the discussion that's going on?

MR. FOX: No. They're not stenographic minutes, Mr. Chairman.

SENATOR AMBROSIO: But they are taken at the time the discussion is being held?

MR. FOX: As I understand it, the methodology is that some notes are taken and very shortly after the meeting, the same day or the next day, they are dictated, typed, forwarded to the offices of the Authority and to the Governor's office. There are notes taken as we go along, and almost contemporaneously typed up. But, obviously, they can't be typed up instantaneously.

SENATOR AMBROSIO: You say the copies are sent to the Highway Authority, the Governor's Independent Authorities Unit, and the members of the Governor's Independent Authorities Unit are present at the meetings?

MR. FOX: Yes, sir.

SENATOR AMBROSIO: Mr. Grossman, do you agree with that procedure?

MR. GROSSMAN: Yes, sir. I do.

SENATOR AMBROSIO: Do you physically take the notes?

MR. GROSSMAN: Yes, I do.

SENATOR AMBROSIO: Did you take the notes from the period of August of '86 through the end of '87?

MR. GROSSMAN: Yes, sir, I did at the meetings at which I was present, of course.

SENATOR JACKMAN: They weren't verbatim were they?

SENATOR AMBROSIO: No. These are not verbatim.

SENATOR JACKMAN: Of course not. You'd need a machine. You wouldn't be a lawyer, if you took it down verbatim.

SENATOR AMBROSIO: The minutes of the meetings, are they voted on by the Authority to approve them?

MR. FOX: No, sir. I believe I covered that in my statement. We have since suggested to that effect either by the Senate or the Assembly Utilities Committee, at a relatively recent meeting, have not been voted on by the Commissioners. ~~It was suggested that they be voted on; we've instituted that procedure, I believe in December and the methodology is that~~

SENATOR AMBROSIO: You've reviewed the minutes of the closed meetings. It's your statement that they are essentially accurate and that you would make no changes in them, is that right?

MR. FOX: Again, I've got to part your sentence. I believe that the minutes are accurate. I believe that everything that happened is covered in the minutes and nothing that happened is not covered in the minutes. If I were writing the minutes today, there are certainly words I would have changed. These were not attempted to be written for posterity, nor was it ever dreamed of that they would be subjected to the kind of scrutiny to which they have been subjected. And I think if you take almost any sentence of anything you write, if it's given the kind of scrutiny these minutes have had, there might be a change or two you'd make. But basically, I stand by these minutes. This is what happens at the Authority meetings which I attended.

SENATOR AMBROSIO: Well, maybe you misunderstood my question. What I asked is if you were to change them in any way, would you, if you could?

MR. FOX: If I could?

SENATOR AMBROSIO: Yes.

MR. FOX: If I were to know that these things were to appear on the television screen and be printed in the press, as they have been, I would have made sure that there were five or six drafts and I would have polished them far more than they are polished. But there is nothing of substance in them that I would have changed.

SENATOR AMBROSIO: You wouldn't add or take out anything?

MR. FOX: I wouldn't add the events or subtract the events. I would change words. It was SENATOR AMBROSIO: I'd like to direct your attention to the minutes of the closed meeting of August '86.

MR. FOX: Sir, may I have a moment? (looks through notes) I have them.

SENATOR AMBROSIO: During the course of the discussion concerning the takeover of the Department of Transportation mileage -- now I'm going to quote at this point: "There was also a discussion with respect to plans for proposed toll increase. The Authority's proposal has been submitted to representatives of the Governor who are currently reviewing the proposal." Do you see that?

MR. FOX: Yes, sir.

SENATOR AMBROSIO: Who were the representatives of the Governor who received this proposal?

MR. FOX: I don't know. I believe that what had happened was that either the Executive Director or one of the Commissioners or the Chairman said what is reported here, that they had been submitted to the Governor. I don't believe they said to whom, and I don't know, since I didn't do the submitting. I believe this is a report of what someone said, rather than a report of what I did or what Mr. Grossman did.

SENATOR AMBROSIO: So, what you're saying is that the submission to the Governor took place prior to August of '86, and this is simply a report at the August meeting that such a submission took place.

MR. FOX: Yes.

SENATOR AMBROSIO: Is there anything in your recollection to indicate when the submission to the Governor's office took place?

MR. FOX: No. I never, because I said that I had nothing to do-- That's not my job. But I do know that there are constant discussions with the Governor's office of our financial standing. And our financial standing, perforce, includes consideration of tolls.

SENATOR AMBROSIO: But this is a proposal. In the minutes-- That's why I asked if you wanted to change it. You're talking about a proposal for toll increase that was submitted to the Governor. So, there had to be a proposal.

MR. FOX: No. May I have a moment, Senator, to put it in the context in which I see it?

SENATOR AMBROSIO: Sure.

MR. FOX: Because of the way the Parkway is configured, the only way that you can change tolls is by increasing the tolls at barriers, either on the ramps or the main barriers on the road. Unlike the Turnpike, where if you need \$22 million, you could figure out what percentage that is, raise the toll by the percentage necessary, round it off to the nearest nickel, and proceed.

When the Parkway considers toll changes, it has a vastly more complex problem. It has to consider changing how all the toll machines work. It has to consider the size of every barrier, because it has to figure out whether there is going to be slower traffic through the barriers, and therefore may be needing more toll booths. Now when we talk about tolls, we talk about little increases and big ones first. Ramps, basically small increases; barriers, large increases.

SENATOR AMBROSIO: Mr. Fox, I don't want to cut you off. I don't want an exposè on how you go about raising tolls. What I'm asking you is in the minutes of the meeting, it's indicated that a proposal for a toll increase was submitted to representatives of the Governor. Now what was the proposal that was submitted?

MR. FOX: First of all, I told you that I didn't submit it. Secondly, what it says is, plans for a proposed toll increase. Plans for a proposed toll increase.

SENATOR JACKMAN: No, amount?
MR. FOX: The only discussion that I--

SENATOR JACKMAN: That's what he's asking you. I think he's asking you to--

MR. FOX: Oh, certainly no amount.

SENATOR JACKMAN: Okay that's it. You're trying to figure out the amount?

MR. FOX: Oh, if that's what you're after-- I'm sorry I'm so thick, Senator, but the--

SENATOR JACKMAN: I'm glad I'm not a lawyer. Honest to Christ, I am.

MR. FOX: But as far as I know, I never heard a discussion of amounts until October.

SENATOR JACKMAN: That's all. Forget about it. Don't go into a long dissertation. Forget about it. Just the amount.

MR. FOX: You're doing better than I am--

SENATOR AMBROSIO: Thanks for the help, Chris. Mr. Fox, further in that meeting, there's an indication that there were matters -- why this was subject to the closed meeting is that there were matters -- involving contract negotiations. And that was the reason for discussing this in closed sessions. Is that right?

MR. FOX: Yes, that's right.

SENATOR AMBROSIO: What were the contract negotiations?

MR. FOX: The contract negotiations were with the DOT on the subject of the takeover of the State's section. This was the issue at that time. I believe I had just prepared the first draft of that contract.

SENATOR AMBROSIO: I don't want to get into any great detail on this. That was the contract. It had to do with the takeover of the State section. Did that contract have anything to do with tolls?

MR. FOX: No, sir, not in a direct sense. But in the sense that the cost of that contract to the Authority was many, many millions of dollars. I've heard all kind of numbers; they generally run around \$50 million. No responsible authority could consider taking over the State-owned sections, without considering the financial implications of it, and the Authority couldn't consider the financial implications of it without considering its effect on tolls.

SENATOR AMBROSIO: My question really deals with the exception to the Open Public Meetings Act that you relied upon, and that is contract negotiations.

MR. FOX: Yes, sir.

SENATOR AMBROSIO: The negotiations were between the State and the Highway Authority -- the DOT and the Highway Authority -- about the takeover of this section. Is that right?

MR. FOX: Yes, sir.

SENATOR AMBROSIO: Those negotiations did not involve a toll increase. Did they? From that contract?

MR. FOX: Well, the negotiation did involve tolls.

SENATOR DORSEY: I just want to point out, isn't it, Mr. Fox at this point, while you say that you told the Commissioners that they could not discuss in executive session toll increases, per se, you did say that they could discuss tolls if it related to what you referred to as an ancillary matter?

MR. FOX: Yes.

SENATOR DORSEY: So, then on the basis that you were going into executive session to presumably discuss a contract with the State of New Jersey, DOT, to take over a portion of the road, it was your opinion that in the course of that discussion, they could discuss tolls. Is that not so?

MR. FOX: Exactly.

SENATOR DORSEY: Now, understand the concept within the Open Public Meetings Act providing for a municipal or

public agency the right to have executive sessions, primarily so that their negotiating strategy or their litigation strategy is not revealed to the party with whom they are negotiating or litigating. Correct?

~~MR. FOX:~~ ~~Yes, sir.~~ ~~the State owned sections.~~ ~~without~~ ~~SENATOR DORSEY:~~ ~~Okay.~~ ~~But isn't that all farcical in this context, because when your Authority went into executive session to discuss the contract between it and the State of New Jersey, relative to takeover that portion of the highway which was operated by the NJDOT, we in fact had present in all of those executive sessions, a member of the Governor's staff, and hence, whatever the Commissioners' thoughts were in terms of negotiating strategy was revealed to the very party that you were negotiating with.~~

MR. FOX: No. We were negotiating with Mrs. Gluck.

SENATOR DORSEY: And you are going to draw a distinction today between Commissioner Gluck and a representative of the Administration being present at those meetings?

MR. FOX: Senator, look, you're drawing the distinction, if you will.

SENATOR DORSEY: No, I'm not drawing a distinction. I say there is no distinction.

MR. FOX: So, you're saying, in other words, since the Governor was there and since we were dealing with a member of the Governor's Cabinet--

SENATOR DORSEY: Wait a minute. Excuse me. I didn't say the Governor was there.

MR. FOX: I'm sorry, representative--

SENATOR DORSEY: I said that you testified that there was a member of the Administration there at all times. As a matter of fact, you stated earlier, that Ms. Bogel had requested of you that they receive copies of your executive session meetings. So that at all points in time, the

Administration was being advised as to what you consider to be legitimately within the framework of an executive session. That's like my litigating for the Township of Mount Olive in discussing with my governing body the strategy to be followed, and at the same time having Mr. Robinson in the meeting who's representing the other side.

MR. FOX: Well, I agree with your last characterization completely. You have not asked me my opinion as to who should be present at Authority closed sessions. Of the subject of the Governor's representation at the Authority's closed sessions--

SENATOR DORSEY: Well, Mr. Fox, I will accept that your opinion as to who should be present at an executive session, is of no consequence, because I take it either the Chairman or the members of the Commission can decide who is there. But I do think it was your function as the attorney to the Commission to point out when, in fact, there is a member of the Administration who is present at these so-called negotiating workshops -- strategy sessions -- that then there's a farce to claiming any privilege under the Open Public Meetings Act.

MR. FOX: Senator, I hear you, and I've heard the expression "farce" and "farcical."

SENATOR DORSEY: Charade.

MR. FOX: Also charade. I have to tell you, that having been on the scene, and knowing what those negotiations were like -- and I did a lot of them. Arthur took them over after a while, but I did a lot of them. There were some very serious hot and heavy negotiations. And it seems to me, you're saying that we had to assume that the woman from the Governor's office was going to run back and tell everything that she heard, and therefore, it was farcical. Our assumption was that we were being treated decently and that our private negotiating techniques would not be carried home. That was the only assumption that we could reasonably make.

And I want to tell you -- there were problems. For a good long time we didn't want the Morris/Essex section of the road. We just wanted the two southern sections. And we had to talk about it. But, the only place we had to talk about it was with the Governor's representative present. in the meeting with

SENATOR DORSEY: Then, Mr. Fox, I'll accept that. And I certainly wouldn't want it to appear on the record that I would imply that Ms. Bogel or Ms. Stiefel would not treat you decently and courteously.

MR. FOX: Ms. Bogel was never there.

SENATOR DORSEY: I'm just saying to you, that there you are, having what should be an executive session to discuss your strategy, and you in essence are having it -- and I use this term advisably -- with the enemy present; with the enemy present!

MR. FOX: Okay.

SENATOR DORSEY: So, then there is no centilla of basis to say that you should have the right of an executive session, because the only persons then excluded from this were, in fact, the public generally. Now, let me ask you one other--

MR. FOX: Excuse me for one second, please. May I say one more thing in response to that? We knew that. We were aware of that problem. And at one time we requested that Ms. Stiefel leave the meeting while we discussed tactics having to do with the takeover of the State section. She left. I don't know whether it was this meeting or one a couple of--

SENATOR DORSEY: Excuse me. My one other question here is, do you then agree that Ms. Stiefel was actually there to negotiate for NJDOT?

MR. FOX: Oh, no. She did not negotiate. Ms. Stiefel was a passive force at the meeting. She took notes, she once in awhile carried a piece of paper back and forth. She did not participate in the meeting.

SENATOR DORSEY: All right. I don't want to carry this on, but let me ask you one other question. Under the Open Public Meetings Law, let's assume for a minute that you had properly called -- and I don't agree with this -- you had properly invoked executive privileges for the purpose of an executive meeting.

DORSEY: Then, Mr. Fox, I'll accept that. And
MR. FOX: --I'm sorry. An executive privilege?

SENATOR DORSEY: You properly invoked the right to go into executive session.

MR. FOX: Yes.

SENATOR DORSEY: To discuss something under the law that could legitimately be discussed in executive session. Now, you told us that for a long period of time, and during the critical period of time, Mr. Grossman prepared notes of those meetings, dictated them, and then they were dispersed. Can you tell me at one point in time the minutes of those executive sessions were then released to the public and the press?

MR. FOX: The minutes were always available, from the day the Open Public Meetings Act was passed.

SENATOR DORSEY: I don't understand it. Are you saying, for instance, there was a meeting on August 22, 1986; part of it occurred in executive sessions; Mr. Grossman, according to your routine, prepared minutes, not verbatim, but minutes of what occurred at the executive session? And are you telling me that within a week after that, Mr. Grossman then released copies of those minutes?

MR. FOX: I didn't say that. I said they were available.

SENATOR DORSEY: Well, available to whom, Mr. Fox?

MR. FOX: They were available to anyone who requested them. Let me find the statutory reference.

SENATOR AMBROSIO: Mr. Fox, come back to that point. I don't want to--

MR. FOX: I have the answer. The 10:4-14 says we take minutes, "which shall be promptly available to the public." Promptly available to the public. Our minutes were promptly available to the public. I don't agree with that. You may

SENATOR DiFRANCESCO: The minutes of the open meetings?

MR. FOX: Yeah. Well, the minutes of the open meetings, of course, because they were available under the Right to Know Law. But the minutes of the exempt meetings are known under statute--

SENATOR DiFRANCESCO: That's what it says there? That's what it says about the exempt meetings?

MR. FOX: Fourteen says promptly available.

SENATOR DORSEY: We understand that the statute requires that the minutes of executive session be released once the purpose of the executive session has, for purpose of the--

MR. FOX: Be available, not released. It doesn't say released. It says available.

SENATOR DORSEY: Well, then how do you distinguish it? You say they were available, but they weren't--

MR. FOX: They were available for when they were asked. And I'll tell you--

SENATOR DORSEY: Excuse me. Do you mean the insiders, i.e. the Commissioners and the officers, or do you mean to the public generally?

MR. FOX: The Governor's Authority Unit and Mr. Zilocchi got them immediately.

SENATOR DORSEY: Well, do you know when Mr. Zilocchi would release them to the public? To the press?

MR. FOX: When asked. The statute doesn't say released, Senator. The statute says they shall be made available. When the requests-- Now we had a series of requests for meetings going back all the way to the beginning--

SENATOR DORSEY: Okay, then I'll take that up with Mr. Zilocchi. I think we're just arguing about semantics -- available or released.

MR. FOX: I did it. I know more about it than he does.

SENATOR AMBROSIO: Senator, can I just pick up on that, and then I'll give it to Senator Jackman. Mr. Fox, when you sent the minutes for the private meetings, the closed meetings, you gave them to Mr. Zilocchi? -- of the open meetings?

MR. FOX: Yes. Well, the minutes of the open

SENATOR AMBROSIO: Did you give any instructions as to when they could be made available to the public?

MR. FOX: They were available--

SENATOR AMBROSIO: No. That's not my question. My question is did the minutes contain any direction to him as to--

MR. FOX: The minutes? No.

SENATOR AMBROSIO: So, as far as you're concerned, he could have made those minutes available to the public at any time?

MR. FOX: Certainly he could have. But we are sufficiently aware-- We get along well, Mr. Zilocchi. The problem, of course, with releasing the minutes, is some of the items of these minutes are never--

SENATOR AMBROSIO: Now, you're using the word "releasing" and you objected to Senator Dorsey using the word "releasing."

MR. FOX: I apologize profusely for the use of the word. It was an error. The word is, "make available." And I misspoke and I hope you won't call me for it. I retract it.

When a request comes for the minutes, obviously we have to look at them to see whether there are any items in them which still may not be allowed to be made public. For example, matters relating to personnel, which are the most usual, where there are private matters dealing with personnel where you simply can never let go. There happened to be two or three things. We've had one instance where a case was settled out of court.

SENATOR AMBROSIO: Mr. Fox, just try to make your answers a little more direct. The question is, when you gave the minutes to Mr. Zilocchi, did you give him any instructions as to when they could be made available to the public? Now, that's basically a yes or no answer, is it?

MR. FOX: If you push me to a yes or no answer, obviously the answer is no.

SENATOR AMBROSIO: Is no?

MR. FOX: I gave him no instructions. But we had an--

SENATOR AMBROSIO: Now if someone requested these minutes, what is the procedure? Mr. Zilocchi would call you and say, "Can I release them?"

MR. FOX: Of course.

SENATOR AMBROSIO: And then you would review them on a case by case basis?

MR. FOX: Of course.

SENATOR AMBROSIO: So, basically the minutes were not available to anyone unless you approved it.

MR. FOX: In practice, that's how it worked. Obviously, everybody got all the minutes when they wanted them.

SENATOR AMBROSIO: When you say everybody, you're talking about the Commissioners?

MR. FOX: No. Everybody who requested minutes, got them. When a request came in, we reviewed the minutes that were requested. If there was nothing in it that had to be kept confidential, the minutes were released immediately. I believe that a request that came in on Friday, was done by Monday of the following week. It depends on how many there were. It changes all the time. The minutes of a meeting in 1985, which may have had something blocked out two months ago, may have nothing blocked out today.

SENATOR AMBROSIO: Senator Jackman has a question.

SENATOR JACKMAN: You know, I'm not a lawyer, Mr. Fox, so if you'll start off with that, that will be helpful to you,

because most of the people sitting up here are lawyers except myself and I think Mr. McNamara. We're not lawyers; all the rest are lawyers. I want to commend you at the outset by telling you that 21 pages is a good biography and everything else that came down the line. To me, the last page is the substance of the whole thing, where you admit -- and I think that's the important part -- that there were mistakes made during the process of the toll increase, the meetings, supposedly with the Governor's people, and etc. and etc. Is that true or is that not true?

MR. FOX: I've said there were mistakes. Yes.

SENATOR JACKMAN: Okay. We got that on the record. You made mistakes. So, it means that none of us are infallible. We all make mistakes.

MR. FOX: I have had very few days I haven't made mistakes.

SENATOR JACKMAN: You don't believe, do you Mr. Fox, as the lawyer representing this Authority that you gave them bad advice so that they would make mistakes?

MR. FOX: No, I don't.

SENATOR JACKMAN: You don't think so.

MR. FOX: I don't think I gave them perfect advice always; I gave them my best.

SENATOR JACKMAN: Oh, I don't want you to be perfect, because if you would, you would be on the right-hand side of God. Just stay the way you are. Don't get perfect. To me the answer is, you gave them sound advice to the best of your ability. True?

MR. FOX: Exactly. I did the best I could.

SENATOR JACKMAN: No, question in your mind that during the course of all these events, both in the press and some of the information that we got back, and some of the statistical data in the meetings you got, there's an admission that there were mistakes made; not intentionally, but mistakes were made. Good?

MR. FOX: Good.

SENATOR JACKMAN: Okay. Now, do you see any problem in the future for us sitting here? You know we're going to ask questions, you know everybody gives you the stock answers and all that. To me, it's just a waste of a lot of time, in my book. As long as you know you've made your mistakes. You're not going to make them again; you're going to try to correct them, or you're going to recommend that they don't make them again. Is that right?

MR. FOX: Fair statement.

SENATOR JACKMAN: That's all I want to know. That's enough; all the rest don't mean nothing. Thank you.

SENATOR AMBROSIO: Well, it may mean something to other people. So, we're going to continue.

SENATOR JACKMAN: Well, not to me. To lawyers it does; me, it don't.

SENATOR AMBROSIO: Mr. Fox, I want to direct your attention to the minutes of the meeting of January 22 -- the closed minutes.

MR. FOX: I assume you mean 1987.

SENATOR AMBROSIO: Yes. January 22, 1987. The first portion of the minutes indicate, and I'm quoting: "Chairman Stanley reported that she, Commissioners Levey, Robinson, Sambol, and Executive Director Zilocchi recently met with the Governor to review the Authority's proposals for a ramp toll increase and a barrier toll increase. After reviewing the relevant facts and figures, the Governor--"

MR. FOX: It's relevant.

SENATOR AMBROSIO: "--the Governor approved of the Authority's proposal for the ramp toll increase which may be implemented immediately. The Governor also approved of the Authority's proposal for a barrier toll increase provided that the Authority not proceed with or implement that increase until the end of 1987." Now that's right out of the minutes. Those minutes are accurate. Is that right?

MR. FOX: Yes, sir.

SENATOR AMBROSIO: Was this meeting with the Governor advertised in advance?

MR. FOX: I have no knowledge of the meeting with the Governor other than what's reported in these minutes.

SENATOR AMBROSIO: So, you were not aware of the meeting before it took place?

MR. FOX: I don't believe I was aware of the meeting and I certainly wasn't there. I may have known there was going to be a meeting in advance. I don't have a clear memory on that. But I certainly was not there. And if I knew of it, I don't believe I knew all of whom was going to be present.

SENATOR AMBROSIO: Was your opinion sought by the Chairman or the Executive Director concerning the propriety of that meeting in light of the Open Public Meetings Act.

MR. FOX: I don't believe so.

SENATOR AMBROSIO: You don't believe so?

MR. FOX: I don't believe so.

SENATOR AMBROSIO: And you found out about the meeting after it took place. Did anybody give a written report of the meeting?

MR. FOX: No. I'm sure not from subsequent statements that I've heard -- not from contemporaneous statements.

SENATOR AMBROSIO: Did the meeting with the Governor's office raise any question in your mind concerning the application of the Open Public Meetings Act?

MR. FOX: I assume you're asking me as a quasi expert witness.

SENATOR AMBROSIO: I'm talking about in terms of your representation of the Authority.

MR. FOX: Well, I have always had concern about more than three members of Authority being present anywhere at the same time. And certainly such question arose in my mind.

SENATOR AMBROSIO: Did you communicate that concern to--

MR. FOX: It was after the fact, so the-- I mean, when I hear four members of the Authority go to a performance at the Garden State Arts Center, it worries me.

SENATOR AMBROSIO: ~~Senator DiFrancesco, do you want to ask a couple of questions?~~ reported in these minutes.

SENATOR DiFRANCESCO: ~~Yes, I do.~~ Just to follow up on what Senator Ambrosio was talking about: you were not present on any alleged meeting with the Governor, you said.

MR. FOX: I was never present.

SENATOR DiFRANCESCO: Let me turn my mike on. Do you hear me all right?

MR. FOX: I was never present at any meeting with the Governor on Authority's business.

SENATOR DiFRANCESCO: You don't have to say that. We're talking about the meeting that he was just referring to.

MR. FOX: I was not present at this meeting.

SENATOR DiFRANCESCO: To your knowledge, these four individuals, I think you mentioned--

MR. FOX: Yes, there were four. The four officers of the Authority--

SENATOR DiFRANCESCO: They didn't make any decisions as an Authority board, to your knowledge? Did they?

MR. FOX: Well, since I wasn't there, I don't know what they did. But, I have no knowledge of them having made any decisions.

SENATOR DiFRANCESCO: No one communicated to you that a decision was made by them.

MR. FOX: Absolutely correct, Senator.

SENATOR DiFRANCESCO: But you were aware, based upon what you heard, that there was a meeting.

MR. FOX: Oh, I know there was a meeting. They told me.

SENATOR DiFRANCESCO: And that the Governor himself allegedly, or his representatives, let us say, made some form

of approval, as opposed to the four Commissioners making decisions.

MR. FOX: No. You're on, in this sense. It was reported at the meeting of January 22, that the Governor said some things at that meeting. The scrivener took it down. We're the scriveners.

SENATOR DiFRANCESCO: Now I have the other questions that were written down. Let's see if they've been answered. During the last twelve years, have you represented any other public bodies yourself, individually, as the Attorney for, as opposed to, the firm?

MR. FOX: I do not believe so, Senator.

SENATOR DiFRANCESCO: As the firm?

MR. FOX: Yes.

SENATOR DiFRANCESCO: Numerous?

MR. FOX: Not numerous.

SENATOR DiFRANCESCO: More than one?

MR. FOX: I'm not sure. I know we represent one municipality and we have a rather broad practice, but it's largely commercial.

SENATOR DiFRANCESCO: One of the things that you mentioned in your statement -- let's see if I can find it -- was that as, and now I'm paraphrasing, as new Commissioners came onto the Authority-- Oh, here it is. On page seven, I believe: "I believe that I told each newly appointed Commissioner and each new Executive Director that our procedures on this point were not precisely in conformity with the statute."

MR. FOX: Yes, sir.

SENATOR DiFRANCESCO: Did you tell them that in writing?

MR. FOX: No, sir.

SENATOR DiFRANCESCO: Ever?

MR. FOX: No, sir.

SENATOR DiFRANCESCO: Do you have this recollection of expressly indicating to each new Highway Commissioner that they were not conforming to the Open Public Meetings Act? I'm not trying to, you know-- I'm trying to get it straight--
MR. FOX: I hear what you're doing. May I make it straight?

SENATOR DiFRANCESCO: Sure. I'm easy.

MR. FOX: Okay. From the beginning, we believed that our way of handling it was sensible and not harmful, and in substantial compliance with the Act. I was constantly aware of the fact after a few years that it was not precisely in conformity with the Act. I believed, and I believe now that the way we did it was better. But, now, I said we're doing it this way. Most others start the meeting, adjourn the meeting, and go into private session. We do it by setting our private session up early in the morning, setting our public meeting for 11 o'clock, and not forcing a lot of people to stick around. It got to be the way we did it. I tried to tell everyone, I can't remember when and where I told them, I think they all knew, but I'm not sure. But, I've taken that blame twice this morning, and I'll be happy to do it four or five more times if you'd like.

SENATOR DiFRANCESCO: Okay. You can stop now. The thrust of my question was to find out whether or not you communicated that to them in writing as they came on board -- or as an Authority?

MR. FOX: Not in writing. I believe it was done orally -- no, not as an Authority -- but I believe orally to the new individuals who came on board.

SENATOR DiFRANCESCO: Now, you indicated that for some years you took the minutes and then had them typed up, and now Mr. Grossman takes the minutes in general.

MR. FOX: For a few years. I think he's been doing it for seven or eight years.

SENATOR DiFRANCESCO: I believe in your statement where the matters underlined considerably -- and that is the October 22, 1987 meeting on page 16.

MR. FOX: I remember the meeting very well.

SENATOR DiFRANCESCO: Okay. You indicate on this page and on the following page, particularly on the following page, that, of course after advising the Commissioners that they were on tenuous ground with the Open Public Meetings Act, on top of page 17 it says, "My recollection is that after the presentation of this rationale, the Commissioners continued with the discussion." Now, the advice that you say that you gave them, is that in the minutes of the October 23 meeting? Your advice, is that in the minutes?

MR. FOX: No, my advice on lawyer client matters is never in the minutes. Where I give advice during the course of a meeting, it's almost never in the minutes, because of the privilege.

SENATOR DiFRANCESCO: Was any of the material contained on page 16 of your testimony contained in the minutes of this October 22, 1987 meeting?

MR. FOX: I believe that there is a statement in the minutes that the exemption on which the Commissioners relied was the public safety exemption.

SENATOR DiFRANCESCO: Okay. And that was based upon your advice?

MR. FOX: No, sir. Not exactly. My advice was that it was tenuous. That it--

SENATOR DiFRANCESCO: But that's not in the minutes.

MR. FOX: That is not in the minutes. And my subsequent advice was that it should be redone.

SENATOR DiFRANCESCO: That was in November?

MR. FOX: Yes, sir. The next month.

SENATOR DiFRANCESCO: Is there any particular legal reason why you would send automatically, or -- I shouldn't say that, because I guess Ms. Bogel requested the minutes of the

executive session -- but is there any legal reason why you would do that automatically? After every session, public or closed, you send the minutes to the Governor's office. Is that accurate?

MR. FOX: Yes, sir.

SENATOR DiFRANCESCO: Okay. Is there a mandate that that be done?

MR. FOX: Why do we do it?

SENATOR DiFRANCESCO: Yes, why would you do it?

MR. FOX: Can I answer that question? The Governor in this State has tremendous power. And, he has specifically overwhelming power over the public authorities. He has the ability to veto any action that the public authorities take. He must give prior approval to any changes in tolls; he must give prior approval to any bonds. You do whatever the Governor asks.

Certainly, in matters of this kind, if the Governor asks for a procedural favor, obviously you comply with that favor.

SENATOR DiFRANCESCO: Now, when you send -- and I assume your office sends the minutes to the Governor's office--

MR. FOX: We do.

SENATOR DiFRANCESCO: When you do that -- and these are minutes of executive sessions, during which matters of personnel or legal are discussed--

MR. FOX: Yes, sir.

SENATOR DiFRANCESCO: --do you delete in any fashion those legal or personnel matters that have not been included that you discussed?

MR. FOX: I don't believe so because the Governor's been there at the meetings, and the Governor's representative is at the meeting anyway. Am I correct at that? (referring to staff) Yes, we do not delete them.

SENATOR DiFRANCESCO: Because it wouldn't make sense, because they know what's--

MR. FOX: It wouldn't make any sense; they heard it anyway.

SENATOR DiFRANCESCO: They sat there during all of the meetings anyway.

MR. FOX: They sat there and they heard it anyway. Sure.

SENATOR DiFRANCESCO: And that was someone by the name of Jeanne Stiefel?

MR. FOX: Usually.

SENATOR DiFRANCESCO: Usually. And Jim Weinstein--

MR. FOX: Twice.

SENATOR DiFRANCESCO: Twice. Never Jean Bogel?

MR. FOX: Never Jean Bogel. I have--

SENATOR DiFRANCESCO: Let's clarify that, because she's sitting in the back.

MR. FOX: I don't even know what she-- Jean Bogel called -- I had one telephone conversation with Jean Bogel in May, 1986 when she asked for the minutes.

SENATOR AMBROSIO: Senator?

SENATOR DiFRANCESCO: Go ahead.

SENATOR AMBROSIO: Senator McNamara?

SENATOR McNAMARA: On page 7, your statement says that there's a resolution at the end of each public meeting stating that a closed meeting would be held immediately prior to the next open one. Where is the statutory language permitting that particular process?

MR. FOX: Two answers to this. 10:4-13 says that, "No public body shall exclude the public from any meeting to discuss any matter until the public body shall first adopt a resolution at a meeting to which the public shall be admitted." Now, the issue then becomes whether that resolution may be adopted at a prior meeting, or only at the meeting in progress at the time. There's an Attorney General's opinion -- it was Formal Opinion #29 -- in 1976, which, without boring you of all the details, concludes, "You are therefore advised that

the Open Public Meetings Act does not require the public body to provide adequate notice of a closed session, provided that the public body, at a prior public meeting, has passed a resolution stating the specific items to be discussed." So, I believe that in the sense that we adopted the resolution at a prior public meeting, we are fully in compliance.

SENATOR McNAMARA: But it said-- It's part and parcel that specifically you must identify all the items to be discussed. Did you--

MR. FOX: That's the subject on which I've been beating my chest all morning, and I will be happy to continue to do it. The problem with our non strict compliance was that we merely said we would discuss only matters which are exempt under the Open Public Meetings Act. And strict compliance says that you must, as precisely as possible-- Let's see, I'm sorry, no-- You must give the general nature. Now, in truth, when you give the general nature, you say contract, employee, public safety. The difference is, we said only matters which are exempt. And in that distinction, you are correct, we were not in precise compliance, and again--

SENATOR McNAMARA: Mr. Fox, in all due respect, and I'm not an attorney, I'm a businessman, but I don't see how we can rely on one portion that you're complying with the law, and not--

MR. FOX: I didn't ask you to. I admit that--

SENATOR McNAMARA: I mean, as far as I-- I mean, as a layman, there's no compliance. Because you can't have half the apple without cutting it in half. And we can't say we're doing it half right by announcing it the month before, and then not addressing what's being discussed. Because the agenda-- When is the agenda cut for that meeting? Was it cut the month before?

MR. FOX: Well after the resolution.

SENATOR McNAMARA: Well after the resolution. So it couldn't be in compliance, even under your own--

MR. FOX: Senator, I am a big boy, and I'm ready to take blame when blame is mine. But--

SENATOR McNAMARA: Well, I'm really not looking for true confessions. But I really want to get down a little further in your--

MR. FOX: But now, I want to tell-- But I think in fairness, you've got to let me say one more thing for myself. I was here at the beginning of the Open Public Meetings Act, and it was a new game in town. And we considered it very carefully at the time it came down. And at that point, I believed the substantial compliance was sufficient.

SENATOR McNAMARA: At that point, when it was introduced.

MR. FOX: At that point. And the blame I take was for not having seen the changes as they came down and made the adjustments more forcibly to my Commissioners. And I've taken that blame over and over again, and I'll do it as often and as long as you'd like.

SENATOR McNAMARA: No, I just want to clarify something in my own mind as to -- as it developed. Because, I'm a layman. And I know I had some discussion with the Public Advocate that day as to who should be hung when it comes to a violation of the--

MR. FOX: Those words are very clearly imprinted upon my mind sir. The picture of me dangling from the State House rotunda has stayed with me.

SENATOR McNAMARA: When you, a little bit later on page 7, you said that you believed that you told each newly appointed Commissioner and Executive Director that the procedures were not precisely in conformity with the statute.

MR. FOX: Yes, sir.

SENATOR McNAMARA: At that point in time, I am certain and sure, if we're talking about when each new Commissioner came on, there was adequate case law that showed that specific

matters must be listed if you were going to discuss them in closed session. Did you advise them that the matter of fact that what you were doing was legal, and/or acceptable, and/or -- I don't know if I want to use the word, but I don't know of any other word to, really -- "to get around the intent of the law"?

MR. FOX: I don't believe it was to get around the intent of the law. I don't believe that there is any-- I do not believe, as I sit here now, that in the way the resolutions are adopted at public bodies of which I have knowledge, the amount of disclosure is substantially different from what we give.

However, I confess again, that it is not in precise strict compliance with the law. That is why I told the new Commissioners. Because, I had a concern about it. I thought what we did was better.

SENATOR McNAMARA: You told the new Commissioners. Did you tell them that in fact, they could not continue in that manner, or that it could be or that it was legal to continue in that process?

MR. FOX: I don't remember the express words I used with the new Commissioners. I believe the idea that I was getting across was that we do it differently than others; we are probably not in strict compliance with the law, but I believe we are in substantial compliance with the law. I have to use lawyers' words; I am a lawyer. I have to use lawyers' words.

SENATOR McNAMARA: I guess, not being an attorney, I've got a little bit of a problem with it, that if I'm asking you for advice, and you're telling me that we are a part to, but we're really not a part of, that gives me a real problem.

MR. FOX: May I deal with that, Senator, so that you understand the problem that a lawyer has in giving advice? If something is 100% certain, we're likely not to be asked. If it's 100% certain yes or 100% certain no--

SENATOR McNAMARA: But that's why you're on retainer.

MR. FOX: I don't know if that's why we're on retainer. But most answers we give, are we think so. Half of every cases--~~Some~~ Some lawyer loses every case. And he must have advised his client to get into that case, or at least been willing to go along with him to get into it. We very frequently make close calls. Now--

SENATOR McNAMARA: Maybe this is the area where we disagree. I don't exactly, as a layman, reading the statute, see where it's a close call. Because, you gave notice, but you deliberately did not put in, because you didn't even know, what was going to be on the agenda and the law specifically says you must state it's going to deal with--

MR. FOX: It says-- All the law says is state the general nature of the subject.

SENATOR McNAMARA: But you don't even-- Of the subject matter--

MR. FOX: Of the subject.

SENATOR McNAMARA: Whether it's going to be contracts, whether it's going to be union negotiations, whether it's going to be hiring, firing--

MR. FOX: Yeah, but in the-- My point is, Senator, that in the real world, the exceptions upon which we rely are lawyer client contract negotiations, union negotiations, sometimes public safety. And if there would have been a major difference in listing those four items, I don't quite see it. But I agree with you, and over and over again I will say, what we did was not strict compliance, and for that I take the responsibility.

SENATOR McNAMARA: But let me try to nail it down a little bit, and I'll end up, Gabe. Did the Commissioners know, from your interpretation, or how you informed them, when they were first newly appointed, that they in fact would be in violation of the law by going into these closed sessions in the manner that you have prescribed?

MR. FOX: Certainly, at the beginning, Senator, I did not believe that what we were doing was in violation of the law. I believed that the--

SENATOR McNAMARA: You know, your statement says that, "I believe that I told each newly appointed Commissioner and each new Executive Director that our procedures at this point were not precisely" -- and you chose the language--

MR. FOX: I did indeed.

SENATOR McNAMARA: --"in conformity with the statute."

MR. FOX: That's right.

SENATOR McNAMARA: Now, is that because-- Who are you covering? I mean, I want to know if the Commissioners were aware that what they were doing was holding an illegal closed session--

MR. FOX: No, no, no, they were not.

SENATOR McNAMARA: --or, were they relying on your advice? Well then, I object to the not precisely.

MR. FOX: All right. May I-- Maybe the problem is in lawyering language. Substantial compliance and strict compliance are lawyering terms. I believe that in many instances you will find court cases saying that substantial compliance with the law is enough. I readily admit that there are cases under the Open Public Meetings Act which say that substantial compliance is not enough. In the early days, when we first instituted this procedure, I was fully satisfied that substantial compliance was enough. If I made an--

SENATOR McNAMARA: Mr. Fox, if I may interrupt. You say, "I believe I told each newly appointed Commissioner," so that we're way past when the Act was passed.

MR. FOX: Fine.

SENATOR McNAMARA: We're up to today.

MR. FOX: Yes.

SENATOR McNAMARA: And every new Commissioner that went on there, you sat down and explained to him, what the

conditions were. Now, you either told him that they could hold the closed sessions in the manner which you were accustomed to doing, and it was legal, or your language of not precisely in conformity with the statute. I deal with attorneys, and when an attorney tells me, "well, it's not quite," it's no go. Because that's a CYA.

MR. FOX: A what? I'm sorry, I don't understand.

SENATOR McNAMARA: Well, I don't want to explain what it is, but it's a CYA for the attorney. And it means that I'm hanging out there. And I want to know if you were satisfied that the Commissioners were comfortable that when they went into closed session, they were going into closed session within the law, and the parameters of that law?

MR. FOX: I believe that they could conclude from what I said that they were.

SENATOR McNAMARA: All right. One other item, Gabe, and I'll get off--

MR. FOX: I believe that they could. Although I have described the people to whom I was giving that advice, and a number of them have substantial independent knowledge of the subject.

SENATOR McNAMARA: A lot of people have a lot of faith in lawyers. I'm not one of them. In all deference to my colleagues--

MR. FOX: As long as you include them, Senator.

SENATOR McNAMARA: One other item that you mentioned, and I guess it does trouble me, and maybe it's not a point to further discuss, but at the top of page 8 of your statement, "I believe the Authority's original procedure was practical and convenient." And that really troubles me, because I wonder -- and I guess maybe it's at a point later to be discussed -- but I'm wondering what other statutes that you might have thought were practical and convenient to skirt around?

MR. FOX: I don't think that's a fair quibble, Senator. Incidentally, if I were sitting where you sit, I would look at this section of the law. Because I think a large amount of money is wasted on convening these meetings, going into private session, and having members of the press, the public, and employees of governmental agencies sit around while caucus meetings are held. And I think that-- Now that's only my judgment as to what I'd be doing where you are.

SENATOR AMBROSIO: Mr. Fox, I think this has reached a point of diminishing returns in terms of this further questioning on the Open Public Meetings Act, but I would like to make this statement. I think where the Senators are having trouble, is that we've read the Public Advocate's report, and I've read all the minutes, and I've read the law, and I'm somewhat familiar with the Open Public Meetings Act, and I don't see how you can characterize what the Highway Authority did as "not precisely"? I mean to me, it was a flagrant violation. I'm just going to read one statement where you make absolutely no attempt to comply with the law. And you read part of the statute, but you didn't read the second part. 10:4-13, "No public body shall exclude the public from any meeting to discuss any matter describing section 7b until the public body shall first adopt a resolution at a meeting to which the public shall be admitted, a) stating the general nature of the subject matter to be discussed, and, b) stating as precisely as possible the time when, and the circumstances under which the discussion conducted in closed session of the public body can be disclosed to the public."

You made absolutely no attempt to comply with that section.

MR. FOX: We made an attempt. And what we did, and were doing until recently, was immediately after each closed session, disclosed as much as we could.

Now, I recognize what you say, and I recognize what I said is a confession in avoidance. But in a substantial sense, we disclosed immediately after our closed session.

~~amount~~ SENATOR AMBROSIO: ~~But you didn't do it beforehand,~~ and that's what the law requires.

MR. FOX: That's correct. I agree with that.

SENATOR AMBROSIO: Let me just direct your attention -- and I don't want to belabor this, because if you don't know anything about the-- If you were just a scrivener of the private meeting minutes, then I really don't have too much to ask you. But the minutes of January 22 refer to Chairman Stanley's report of her meeting with the Governor.

MR. FOX: Yes.

SENATOR AMBROSIO: To your recollection, was there any documentation of that meeting?

MR. FOX: No.

SENATOR AMBROSIO: It was all a verbal report?

MR. FOX: To my-- Oh, at the meeting?

SENATOR AMBROSIO: Yes.

MR. FOX: My recollection is clear; it was a verbal report. What she said.

SENATOR AMBROSIO: I notice that the minutes of the meeting are broken down into various categories.

MR. FOX: Yes?

SENATOR AMBROSIO: And the first category is financing. By the way, is financing something that you can exclude the public from hearing about?

MR. FOX: The financing that we were talking about, and what was on the agenda here, was a \$50- or \$80-million bond anticipation note, and I do believe that it's excludable because I believe that such matters are so replete with contractual negotiations that they are excludable under the Open Public Meetings Act.

SENATOR AMBROSIO: That's not reflected, by the way, in the minutes, that there was any discussion about a \$50-million--

~~MR. FOX:~~ -What do you mean? The whole purpose of this discussion was what we were going to do to get money. The whole purpose of this meeting, of this subject on January 22, was we were running out of money, and what were we going to do to get the coffers filled again. My lips are sticking to my mouth; is it possible for me to get some water?

SENATOR AMBROSIO: Sure. Somebody can arrange for that.

MR. FOX: What we were about in January was that we were running out of dough. And the decision had to be made as to what steps were going to be taken to remedy that situation. Now, what steps were to be taken depended upon what the Governor was willing to do as far as toll increases are concerned. So, we couldn't make a judgment -- or we couldn't -- the Commissioners couldn't make a judgment on to which way to go for financing.

SENATOR AMBROSIO: Until you got orders from the Governor.

MR. FOX: You want to call them orders? I call them suggestions or approvals. But, yes, the Governor called the shots on that one if he wanted to. He could either say, "You do it your own way," or he could say, "This is the way I want you to do it." But the Governor ultimately has absolute control of how we raise money, and absolute control of how we set tolls.

SENATOR AMBROSIO: In that meeting, you talked about a proposal that would allow the Authority to raise -- a financing proposal. The \$50 million -- even though the \$50 million is not mentioned -- that's the figure.

MR. FOX: It was bond anticipation.

SENATOR AMBROSIO: Bond anticipation notes. And there's a comment here in which it says that during the course of the discussions of this item, the Chairman spoke directly to the Governor, presenting the aforesaid proposal. Now was that done by telephone call to the Governor at the meeting, or was this a prior discussion with the Governor?

MR. FOX: What happened was, as I recall it, was the Chairman got up and said, "I'm going to call the Governor about this." I'll give you the reasons why if you wish. She got up, left the room, came back and said, "I spoke to the Governor." Now, that's what happened.

SENATOR AMBROSIO: All right. And she said the Governor approved the proposal.

MR. FOX: Yeah. Now you know what the proposal is?

SENATOR AMBROSIO: No. That's what I'm going to ask you. What was the proposal?

MR. FOX: I tried to say this -- I tried to get this across before. The Governor-- When she reported on the meeting that the four Commissioners had with the Governor, the report was ramp increase now, barrier increase later. When that report was made, as is reflected in these minutes, the Commissioners talked about it, and came to the conclusion that it wasn't a practical way to go; that since the need for money was unitary -- you know, there was one need for money, and it was pretty well known what the amount was -- that to have to go through the procedure twice -- and we have a very complicated procedure, as you know, for raising tolls, because our tolls are rules, and we have to go through a rule amendment procedure.

So, the Governor had said, ramp okay now, barrier later. The Commissioners in talking it over came to the conclusion that it should be done as one thing. At this point, there was a change that the Commissioners were suggesting to the Governor, the Chairman said, or was asked, to talk to the Governor to see if it was okay to do it that way. And that's

the way I understand the reason for the call, the call was made, and she reported back. But I was a scrivener, not a participant in that, but I'm explaining it as I understood.

~~the Governor~~ SENATOR AMBROSIO: So your understanding was that after the Chairman spoke to the Governor, she came back and the Governor had approved the change in the plan from a ramp increase now and a barrier increase later, to delay both--

MR. FOX: Until later. Until later, and do a bond anticipation now.

SENATOR AMBROSIO: But there was no question in your mind that at the January '87 meeting the Governor had approved both a ramp increase and a barrier increase?

MR. FOX: I'd like to talk about the word approved, if I may.

SENATOR AMBROSIO: Go right ahead.

MR. FOX: Okay. You asked me in some detail before whether I would change anything in the minutes. I have trouble with the word approved, because the word approved is a statutory word in some aspects of our bonding--

SENATOR AMBROSIO: I understand that, Mr. Fox, and I don't want to cut you short, but what--

MR. FOX: Okay. The approval--

SENATOR AMBROSIO: Was a verbal approval.

MR. FOX: The approval was not-- The Governor said, okay. He didn't give his approval. You know, as I understand it. I would not write the word "approved" today, because I believe it gives the implication that it was his formal approval, which it clearly wasn't, because the statute requires that to be in writing.

SENATOR AMBROSIO: Did you ever get that in writing?

MR. FOX: As I have said, we got it in writing at the November 19 meeting.

SENATOR AMBROSIO: But, prior to that, the Authority went out and raised -- and borrowed -- \$50 million in bond anticipation notes. Is that right?

MR. FOX: Now you're taking me prior to the-- Yes, of course.

SENATOR AMBROSIO: Prior to the approval? Prior to the approval?

MR. FOX: No. Prior to the approval to bond, yes.

SENATOR AMBROSIO: Yes, prior to the Governor's approval to raise toll increases.

MR. FOX: No. I'm sorry, prior to the approval to raise tolls, yes.

SENATOR AMBROSIO: Yes. Prior to the approval to raise tolls by the Governor, the Authority borrowed \$50 million.

MR. FOX: Yeah. But in fairness to the Governor, the approval we got on the 19th, was a highly conditioned approval.

SENATOR AMBROSIO: No, no, I'm not talking about that approval. I want to know how the Authority made a decision to borrow \$50 million, knowing the only way it could pay that money back is with a toll increase, if they didn't get approval for the toll increase?

MR. FOX: Well, I've seen that discussion in minutes of previous meetings, and I understand what you say. The world doesn't work that precisely. Obviously, the bank loaned us the money. It was satisfied that we'd get a toll increase. Just as obviously, they were probably wrong. We haven't got it yet to this moment. We'll have a ramp increase in May. But, financing, to a very large extent, is done on faith, and not guarantees. Our basic bond covenant isn't a guarantee, it's done on the good faith of the Authority. We frequently issue bonds.

SENATOR AMBROSIO: Well, I find that very hard to believe that a bank will part with \$50 million without having some assurance that the revenues needed to pay that back are in place.

MR. FOX: I didn't say they didn't have some assurance, but they certainly didn't have a guarantee. And the proof of the pudding is that they didn't get it.

SENATOR AMBROSIO: Let me just skip ahead a little bit to the meeting-- You want to pick up some of that?

SENATOR McNAMARA: Yeah, I just want to get-- I think, at least in my notes, back in the minutes of October 30, 1986, the Governor was advised that there would be a technical default by 1989, if there were no toll increases. And the toll increase, based on GAF Inc.'s report, advised to sell debt for '88 capital purposes, and that ramp tolls would be increased. Now that goes back into 1986. But not the barrier toll increase.

MR. FOX: That goes back to '84. I mean--

SENATOR McNAMARA: Well, it's remarkable that it was brought up in '84, but there's no mention in your minutes between '84 and October 30, 1986.

MR. FOX: No, that's not-- I'll tell you, that isn't remarkable. Now, may I tell you why? I mean that's-- When you say something is remarkable, that in effect is a complaint of why it isn't in my minutes, as you said. And I'd like to respond to it, because I don't think it states it the way it is.

Tolls are generally a constant matter of discussion by the staff of the Authority. They have to monitor when the money is going to be needed. And in truth, you hear around the halls of the Authority discussions of where we stand constantly. Obviously, Senators and Assemblymen knew or expected in 1984 that we were going to have an increase. As long as I've been there I've heard talk about tolls. "How much longer can we keep the quarter toll?" is what most of the Commissioners were concerned about from the day they were appointed. Because they were proud of the fact that in 33 years there hadn't been a change in that quarter toll. But at the same time they were spending a lot of money, and they had to continually keep their eye on this problem.

Now, even today-- As I sit here today, nobody knows when the tolls are going to be increased. The Governor has

indicated that he won't have a barrier increase except maybe ten cents next year. Maybe. But there's no promise. There's nothing to talk about, except to watch it before you spend the money.

SENATOR McNAMARA: Can I just ask a question? You made a statement that since the Parkway opened there's never been a toll increase. What do you call, when you--

MR. FOX: Across-- There has never been a barrier increase; there have been ramp increases.

SENATOR McNAMARA: But when-- Plus, when you put in a new barrier or ramp, isn't that a new toll increase for the road? You mean, since the Parkway opened, they have never--

MR. FOX: There's never been a new barrier.

SENATOR McNAMARA: There was never a new ramp added?

MR. FOX: New ramps. There have been new ramps, never a new barrier.

SENATOR McNAMARA: That's toll increase.

MR. FOX: Yes, I agree. I said the basic 25 cents toll.

SENATOR AMBROSIO: Okay. Mr. Fox, I want to direct your attention to the closed minutes of the April 23, 1987 meeting.

MR. FOX: Yes, sir.

SENATOR AMBROSIO: The Authority received a request for documentation from Senator Orechio, Chairman of the Senate Independent Authorities Committee, and there's a note in the minutes of that meeting, and I'm quoting: "Most of the documentation requested was fairly routine. However, there was a request for Authority studies on toll increases. This raised concern. It was agreed that this matter should promptly be brought to the attention of the Governor's office for review and consultation." I, for the life of me, can't understand why that statement was made. Can you explain that?

MR. FOX: I can only give you my opinion. I have no documentation for it, I can only give you my--

SENATOR AMBROSIO: You just wrote this down. Who made the statements?

MR. FOX: I'm not sure I remember. I have the minutes.

SENATOR AMBROSIO: Mr. Grossman, are you aware of who made those statements?

MR. GROSSMAN: No, I can't recall, Senator.

SENATOR AMBROSIO: Do you have any reason why it would raise concern that a Senate Committee requesting routine information would cause--

MR. FOX: I've offered you my opinion on that.

SENATOR AMBROSIO: I'd like to hear it.

MR. FOX: Okay. My opinion is that it was the rule of this game that--

SENATOR AMBROSIO: What game?

MR. FOX: It was the rule of this situation that the subject of tolls not be publicly discussed before the end of 1987, except possibly as to ramp increases. That's my impression.

SENATOR AMBROSIO: And that has nothing to do with contract negotiations or anything having to do with an exemption under the Open Public Meetings Act, does it?

MR. FOX: Excuse me, Senator. There are two different situations. One is the responsibility of Commissioners in considering expenditures of large sums of money, as to where the money was coming from, and whether it was available. And the other was a consideration, which I believe -- and this is only me -- I believe was clear that toll increases were not to be discussed, except possibly for ramp increases, before the end of 1987. I see that distinction.

SENATOR AMBROSIO: What does this statement mean: "It was agreed that this matter should promptly be brought to the attention of the Governor's office for review and consultation"?

MR. FOX: I don't know. I assume it means talk to the Governor's office and find out if there's anything they wanted us to do about it. That's the way I would read it.

SENATOR AMBROSIO: See, Mr. Fox, I was under the impression that the Highway Authority was an independent authority. From reading this, it looks like it's a branch of the Governor's office. Because you got a request for a routine document, and before you responded to it, there was a need to discuss it and consult with the Governor's office.

MR. FOX: That's a possible conclusion. I would say that the extent to which the Governors -- I've only served on the Authority under two Governors -- the extent to which the Governors keep hands on is largely a matter of personal style. And I would agree with you that if a Governor wished to make certain of the major decision making functions of the Authority effectively a branch of his office, he has the power to do it.

SENATOR AMBROSIO: But is there any law, regulation, or any other procedure by which you can withhold information from a Senate Committee on your studies involving toll increases?

MR. FOX: We didn't withhold.

SENATOR AMBROSIO: Do you know whether the information that Senator Orechio ever asked for was ever sent to him?

MR. FOX: I believe it was. I'm not sure when. I guess you'll have to ask Mr. Zilocchi. My memory is that it was.

SENATOR AMBROSIO: Well, I might suggest to you that you check your memory and your sources, because I don't think that that's been done to date.

MR. FOX: Okay, but I told you it was not a matter of my personal knowledge, and it belongs to Mr. Zilocchi.

SENATOR AMBROSIO: Did either you or Mr. Grossman make the suggestion that--

MR. FOX: I'm sorry, I wasn't paying attention. Would you repeat your question?

SENATOR AMBROSIO: I'm trying to find out who made the suggestion that the Governor's office be contacted for review and consultation with regard to this request. Either you or Mr. Grossman--

MR. FOX: It was either a Commissioner or Mr. Zilocchi. I just don't remember.

SENATOR AMBROSIO: You didn't, Mr. Grossman, did you?

MR. GROSSMAN: I don't recall. No, sir.

SENATOR AMBROSIO: You don't recall whether you did or not, or you don't recall who did it?

MR. GROSSMAN: No. I'm sorry, I didn't hear you.

SENATOR AMBROSIO: Do you know who made the suggestion that the Governor's office be contacted for review and consultation in regard to Senator Orechio's request for documents?

MR. GROSSMAN: No, I don't.

SENATOR AMBROSIO: Does anybody else have anything else? (speaking to Committee) By the way, has the Public Advocate's office contacted either one of you with regard to his involvement to his investigation? Have you discussed the Open Public Meetings aspect with the Public Advocate?

MR. FOX: We had telephone conversations with one person from the Public Advocate's office on several occasions.

SENATOR AMBROSIO: How about the Attorney General's office?

MR. FOX: I had one call from the Attorney General's office very early on from someone who lived up in Essex County and asked me to deliver some minutes to his house, and I did it. I don't remember his name, but the minutes were delivered immediately.

SENATOR AMBROSIO: Senators? Anybody else? Thank you, Mr. Fox and Mr. Grossman. Subject-- I don't think we're

going to need these witnesses again, but again if they are, they're still under subpoena, and we'll call them again.

MR. ROBINSON: Yes, that's understood, Mr. Chairman.

SENATOR AMBROSIO: At this time, we're going to take a half hour recess for lunch and we'll convene again in about a half hour.

MR. ROBINSON: Did you want to talk with Mr. Critchley? Or did you want him as a witness?

SENATOR AMBROSIO: Yes. Let me talk to you about that.

(RECESS)

AFTER RECESS:

SENATOR AMBROSIO: Okay. We're going to call this meeting back to order.

I think the record should reflect that one of the witnesses listed on the agenda for today was Tom Critchley. At this point, we're going to defer any questioning of Mr. Critchley and proceed to the questioning of the Chairwoman, Judith Stanley. I understand that Mrs. Stanley is here ready to proceed?

MR. ROBINSON: Yes, she is.

SENATOR AMBROSIO: Mrs. Stanley, I want to please administer the oath to you. If you would please stand? (Mrs. Stanley complies) Do you solemnly swear that the testimony you shall give on the matters now pending before this Committee, shall be the truth, the whole truth, and nothing but the truth, so help you God?

J U D I T H H. S T A N L E Y: I do.

SENATOR AMBROSIO: Thank you. Mrs. Stanley, when were you first appointed to the New Jersey Highway Authority?

MS. STANLEY: In 1982.

SENATOR AMBROSIO: Is that mike on?

MS. STANLEY: I don't know. (turns microphone on)
Now it is.

SENATOR JACKMAN: As long as you have a red light.

~~MS. STANLEY: I have a red light. we're going to take a~~
SENATOR AMBROSIO: And you are currently serving as
Chairman of the Authority?

MS. STANLEY: That is correct.

SENATOR AMBROSIO: And how long have you served in
that capacity?

MS. STANLEY: I believe since 1983.

SENATOR AMBROSIO: And I assume prior to that position
you've held other positions, either elected or appointed, for
public bodies?

MS. STANLEY: I have never been elected. I serve as
Chairman of the Middletown Township Planning Board.

SENATOR AMBROSIO: Now, is that a board that is
subject to the Open Public Meetings Act also?

MS. STANLEY: Yes.

SENATOR AMBROSIO: So you had some knowledge and
experience with it prior to your appointment to the Highway
Authority?

MS. STANLEY: Yes.

SENATOR AMBROSIO: Through your term as Chairman of
the Highway Authority, you have had various occasions where the
Open Public Meetings Act has come into play. Have you not?

MS. STANLEY: Yes.

SENATOR AMBROSIO: What is your understanding as to
what your responsibility is as Chairman of the Authority, with
regard to the Open Public Meetings Act?

MS. STANLEY: To rely on the advice of counsel.

SENATOR AMBROSIO: And that's it, simply to rely on
the advice of counsel?

MS. STANLEY: Yes. If I have questions, I rely on his
advice.

SENATOR AMBROSIO: Are you familiar with the Act itself?

MS. STANLEY: Yes, I've read the Act.

SENATOR AMBROSIO: And what is your understanding as to what the purpose of the Act is?

MS. STANLEY: It is to keep the public informed of certain matters that are not exempt under the Open Public Meetings Act.

SENATOR AMBROSIO: To keep the public informed? It is to your understanding that the purpose of the Act is to have public access to all of the proceedings that come before that Authority, except for the exemptions that are set forth in the Act?

MS. STANLEY: I always relied on the advice of counsel, as I do as Chairman of the Planning Board.

SENATOR AMBROSIO: Well, in that regard, is it your practice simply to conduct your business and wait for counsel to tell you that this is something that should go into private session, or do you confer with counsel as to what matters you can discuss in secret session?

MS. STANLEY: No, as a body we meet and legal counsel gives us advice, allows certain things on the agenda. That is all from legal counsel.

SENATOR AMBROSIO: I'm sorry, Mrs. Stanley. I really can't hear you. If you would speak--

MS. STANLEY: All right. It's all from legal counsel. In other words, if it's put on the agenda, it's at the advice of legal counsel. If we're conferring in exempt session, it's at the advice of legal counsel what we can discuss.

SENATOR AMBROSIO: So the judgment as to whether something should be discussed in closed session or public session is not your decision; it's counsel's decision. Is that your statement?

MS. STANLEY: Yes. I am not a lawyer, sir.

SENATOR AMBROSIO: If an item dealing with a matter that's in question comes before you, do you assume it's going to go in public and wait to be told otherwise, or do you go to counsel and ask him first?

MR. ROBINSON: Could you repeat that please, Mr. Chairman?

SENATOR AMBROSIO: I'm trying to understand the procedure that Mrs. Stanley implements in terms of her role as Chairman of the Authority, as to what the process is for even getting the questions raised as to when something belongs in closed session as opposed to public session. Do you understand what my question is?

MS. STANLEY: I still would have to say that we rely on the advice of counsel.

SENATOR AMBROSIO: Well, who prepares the agenda?

MS. STANLEY: The agenda for the exempt?

SENATOR AMBROSIO: No, for all meetings.

MS. STANLEY: The Executive Director.

SENATOR AMBROSIO: All right. So when an item comes on the agenda, somebody has got to make a decision as to whether it goes into the closed session or the public session. Is that right?

MS. STANLEY: Yes.

SENATOR AMBROSIO: Who makes that judgment?

MS. STANLEY: I believe it is made between the Executive Director and discussed with legal counsel.

SENATOR AMBROSIO: So you have no part in that judgment?

MS. STANLEY: I do not set the agenda, no.

SENATOR AMBROSIO: And you have no part in the judgment--

MS. STANLEY: Unless there are certain things-- I mean, every Commissioner has a right to ask for certain things to be brought up, you know.

SENATOR AMBROSIO: Do you believe that items that are potentially controversial issues, should most probably be discussed in closed session rather than public session?

MR. ROBINSON: Mrs. Chairman, that's very general. I'm wondering if you could be more precise on that? It's too hypothetical.

SENATOR AMBROSIO: All right. Matters that are politically sensitive, or matters that might have broad political implications, is it your belief that they should probably be discussed in closed session as opposed to public session? (Mr. Robinson confers with Ms. Stanley) You know, Mr. Robinson, I understand the need to have you here as counsel, but I don't think it's appropriate for Mrs. Stanley to confer with counsel before answering a very direct question.

MS. STANLEY: I'm not really quite sure whether you're trying to say that it's--

MR. ROBINSON: It's the nature of the question, Senator. It's so general and hypothetical.

SENATOR AMBROSIO: Well, if Mrs. Stanley has a problem with my question then ask me to rephrase. I don't really think side bar, you know--

MS. STANLEY: Would you rephrase it again, sir?

SENATOR AMBROSIO: Conversations with you in counsel with her I think is inappropriate before this Committee. She is here as the Chairman of a Committee (sic) to testify before us, and I don't think she has to confer with counsel to answer a direct question.

MR. ROBINSON: Well Senator, under your Fair Procedures Act, she has the right to be here with counsel, and counsel can't be effective if we can't confer from time to time. But let's not get into an argument. If you would just rephrase the question.

SENATOR AMBROSIO: Well let me go a little deeper into it then. There's a recent article that appeared in the Asbury Park Press and other newspapers throughout this State, which is attributed to ~~you~~ in which you make reference to "the considerable clout in Republican circles," and you're also attributed with the statement that you have served the Republican party very well. Were those statements attributed to you, accurate?

MS. STANLEY: No, they were not.

SENATOR AMBROSIO: They were not. You did not make those statements?

MS. STANLEY: No. Actually what I said is, I would like to be appointed but it would not be the end of my life. I never said, "I want," and I never used the words, "considerable clout."

SENATOR AMBROSIO: At any event, you've been very active in Republican circles?

MS. STANLEY: In certain ways -- never elected to office as I said, but I mean, you know, yes I-- I have friends on both sides.

SENATOR AMBROSIO: Based upon your political experience, do you believe that public discussion of a toll increase before the fall 1987 elections, could be politically damaging?

MS. STANLEY: No. I think that we judged the toll increase -- or I did -- always on the merits; that the toll increase would be judged strictly on its merits and for no other reason.

SENATOR AMBROSIO: Was it the practice of the Authority to hold an exempt or closed meeting prior to the public meeting, each and every month?

MS. STANLEY: Yes.

SENATOR AMBROSIO: Even though you didn't know whether you would have agenda items on for the next month, you held a closed meeting every month?

MS. STANLEY: It was the practice, yes.

SENATOR AMBROSIO: Were there ever any months where you did not have a closed meeting?

MS. STANLEY: I think the October -- ~~no~~, the November 30 meeting. I think we did not have one.

SENATOR AMBROSIO: November 30 of '87?

MS. STANLEY: When we redid the meeting.

SENATOR AMBROSIO: During your term as Chairman, has any Commissioner -- including yourself -- ever suggested that an item under discussion in the closed meeting should be discussed at a public session?

MS. STANLEY: I honestly can't answer that. There could have been times, yes, that somebody wanted it brought forth -- you know, a particular item. I don't know. It could have been very minor. I don't know. I don't remember.

SENATOR AMBROSIO: The minutes of the secret meeting of August 28, 1986, revealed that your Executive Director reported that toll increases had been planned and proposed prior to August 28, 1986, and the minutes further reflect that the projected construction expenses would jeopardize the bond covenants which require you to maintain a certain level of income. Is that correct?

MS. STANLEY: In the first place, they were not secret meetings. They were meetings that we considered exempt, where we discussed--

SENATOR AMBROSIO: Closed meetings?

MS. STANLEY: Yes.

SENATOR AMBROSIO: Now, it's the August 28, 1986, meeting where it was first reported that toll increases were under discussion. Do you remember toll increases being discussed prior to that meeting?

MS. STANLEY: I remember toll increases being discussed, yes; a lot by our staff, and a lot by our financial consultants, and engineers, yes.

SENATOR AMBROSIO: Were they discussed in public sessions or closed sessions?

MS. STANLEY: They were discussed in subcommittees and they were discussed. You know, they were discussed all over

SENATOR AMBROSIO: Well, were they discussed at meetings?

MS. STANLEY: You mean, the actual words "toll increase"? I think actually Crabel, as Commissioner, once spoke at a public session.

SENATOR AMBROSIO: I'm talking about the meetings that you attended as either Commissioner or Chairman. Do you ever recall the question of toll increases being discussed at either public or private meetings prior to August of 1986?

MS. STANLEY: I think, in reading over the minutes, there were a few times that toll increases were brought into play; such as when we discussed the buses, and we had to raise the rates on buses, and things like that. There were other times.

SENATOR AMBROSIO: You're relying upon your recollection of reading the minutes, or do you have a specific recollection?

MS. STANLEY: Really of reading the minutes. I never received the minutes, and so I had to go back and study them.

SENATOR AMBROSIO: Describe the circumstances surrounding the August 1986 meeting, where the toll increase came up. Do you recall how it first came up?

MS. STANLEY: I don't recall how it first came up. I'd have to refer to the minutes. I think--

MR. ROBINSON: What was that, August of '86?

SENATOR AMBROSIO: August of '86, yes.

MS. STANLEY: I think that a consultant came in. (Mr. Robinson shows her a copy of the minutes) Well, we were apparently discussing the State-owned section, and, as Mr. Fox has said before, therefore the matter of tolls came up after that, as ancillary to it.

SENATOR AMBROSIO: In the minutes of the August 1986 meeting, there is the following -- I'm talking about the closed session -- there is the following comments: "Zilocchi reported that the Authority's figures indicate that the proposed toll increases on the ramps would not be sufficient to cover projected expenses beyond 1988." Now, do you recall that meeting?

MS. STANLEY: Do I recall it specifically?

SENATOR AMBROSIO: Do you recall that discussion at that meeting?

MS. STANLEY: I recall it in general. I mean, we would have discussions like that on and off, and not always at exempt meetings. If you're asking me specifically, do I remember August 28, and that actually coming up, no, I had to read the minutes to recall it.

SENATOR AMBROSIO: All right, but having read the minutes, is your recollection refreshed as to what happened at that meeting?

MS. STANLEY: In general, these were things that we often talked about. So, no, I couldn't tell you specifically I remember that.

SENATOR AMBROSIO: What is your understanding as to what it means when they talk about a proposed toll increase at that meeting?

MS. STANLEY: We were always discussing, from the time I remember going on as Commissioner, that toll increases were always up there as a possibility. Sometimes they were discussed in subcommittees. Sometimes there were figures handed to us by the staff.

SENATOR AMBROSIO: Mrs. Stanley, up to this point on August of 1986, was there a proposal to raise tolls? Do you know what a proposal means?

MS. STANLEY: Yes, I do know what a proposal means.

SENATOR AMBROSIO: Not a discussion, a proposal.

MS. STANLEY: There was not actually a specific proposal. I mean, that proposal has been ongoing up until just a few months ago, as to what specifically is going to be proposed. It was constantly changing. The capital improvement program was constantly changing, and all the other variables were changing.

SENATOR AMBROSIO: So is it your understanding that in August of '86 there was no specific proposal to raise tolls?

MS. STANLEY: There was probably a plan, as there had been probably in months before, but it was not a specific proposal that was ready to go out.

SENATOR AMBROSIO: Well, what was your understanding of what the plan was?

MS. STANLEY: They were always staff reports. I guess at that point what they were discussing was the fact that they were talking about the ramp increase and how much that ramp increase would cover our construction costs.

SENATOR AMBROSIO: I don't understand when you say, "They were discussing." You are the Chairman of the Authority, right?

MS. STANLEY: Yes, but I rely on the staff. I rely on the engineering staff to present the capital improvement program to us, and we rely on our financial group to also look at it, and Chester Johnson, our financial consultant, to come in.

SENATOR AMBROSIO: So your understanding was that you don't recall a specific proposal or plan?

MS. STANLEY: No. I'm not there day-to-day, you know, working with everybody. That's just not my role.

SENATOR AMBROSIO: In that same meeting there's a further comment in the minutes that, "The Commissioners unanimously agreed that the dialogue should continue with the Governor's office with regard to the matter." You find that?

MS. STANLEY: Yes, I see that.

SENATOR AMBROSIO: What was the dialogue that was going on with the Governor's office at that time?

MS. STANLEY: I believe that we had been down there -- Mr. Zilocchi and myself -- in July, and just kept them informed of what was going on, which was our way of doing things. I mean, it was either myself or it was the Executive Director who was keeping him informed, but there was always a constant go back and forth.

SENATOR AMBROSIO: Do I understand you saying that you met with the Governor in July of that year?

MS. STANLEY: No, I did not meet with the Governor.

SENATOR AMBROSIO: Well, what did you mean by you "were down there"? Down where?

MS. STANLEY: We presented it to different staff members.

SENATOR AMBROSIO: No. I'm referring to your comments in the minutes of the dialogue that was going on with the Governor's office.

MS. STANLEY: It was not with the Governor. In fact, I did not exactly remember, but Mr. Zilocchi said that he went down, and we just kept them informed. And that was not a specific proposal at that time. It was just to say, "This is where we are to date."

SENATOR AMBROSIO: Mrs. Stanley, do you see the sentence I'm referring to in the minutes of the closed meeting of August 28, 1986--

MS. STANLEY: Yes.

SENATOR AMBROSIO: --where it says, "The Commissioners unanimously agreed that the dialogue should continue with the Governor's office with regard to the matter." Do you see that?

MS. STANLEY: Yes, it's just to keep the Governor's office informed.

SENATOR AMBROSIO: As to what matter?

MS. STANLEY: As to what our financial situation was at the time, and what our consultants were telling us, and what the capital improvement program was doing.

SENATOR AMBROSIO: I just want to see if I can understand what you're saying. Are you saying that you don't recall any specific discussions with the Governor's office prior to August 1986 concerning the question of a toll increase?

MS. STANLEY: I would have to be very honest and say that I don't remember any specific discussion on specifics.

SENATOR AMBROSIO: Up to this time, wasn't there a representative from the Governor's staff at your meetings?

MS. STANLEY: Yes. She started, I believe, right about this time.

SENATOR AMBROSIO: Mrs. Stanley, when was the first discussion concerning the construction of the celebrity reception facility raised at Authority meetings?

MS. STANLEY: I remember hearing about it when I became Commissioner.

SENATOR AMBROSIO: And when was that again?

MS. STANLEY: '82.

SENATOR AMBROSIO: Do you recall discussing it at your meetings?

MS. STANLEY: It was discussed on and off. Celebrity House was never felt to be sufficient to handle the arts center and the flow of traffic there, and what we wanted to do for the cultural fund.

SENATOR AMBROSIO: Do you recall ever discussing this at public meetings, or were they always discussed in private meetings?

MS. STANLEY: I don't know. I know that we discussed them as Commissioners. I know there was a subcommittee on it. I honestly cannot tell you whether we went out in the public at some point and happened to mention the reception center.

SENATOR AMBROSIO: Do you recall when you first publicly announced your intention to build the celebrity facility?

MS. STANLEY: I know certainly we did when we went out for bids. Whether we did before, whether it was brought up in any broad context, I really can't tell you.

SENATOR AMBROSIO: The minutes show that on September 25, 1986, again in the closed portion of the meeting, there were plans and a model of the proposed building reviewed, expecting to cost \$5 million. And comment was made that bids would be advertised the day after that meeting.

MS. STANLEY: Right.

SENATOR AMBROSIO: Do you know whether or not there was ever any public discussion prior to that point?

MS. STANLEY: I'd have to give you the same answer. It may have been brought up in a general way, saying that Celebrity House was not sufficient and that kind of thing, but there was no specifics, I don't believe, on this particular item until it was presented by the engineer and discussed.

SENATOR AMBROSIO: Mrs. Stanley, I can't find anything in the public meetings to indicate that up to this point there was ever any public discussion of the celebrity facility. And what appears is that the plans, and a model, and bids, and proposals, were all prepared and ready to go, and were actually advertised for receipt, prior to any discussion in public. Is that your understanding too?

MS. STANLEY: These are minutes that I only saw for the first time on November 22, so when I go back I have to really remember all these things. This is what it says, and in general they're correct.

SENATOR AMBROSIO: Well, that's also the first time we saw them, Mrs. Stanley. But you were present at the meetings, and I would assume that knowing you were going to testify before this Committee, you would have reviewed them and be

familiar with the chronology of events that took place from August until now.

MS. STANLEY: I have done that, and there are still we ~~many gaps that I have~~ that are not clear, and there are many ~~different~~ opinions among the Commissioners, when they attended the meetings. You're going to find differences of opinion among all of them.

SENATOR JACKMAN: Mrs. Stanley? With your permission, Mr. Chairman? The question was asked -- and I think it's one that you're going to almost have to say yes or no -- it couldn't have been discussed at a public meeting because there was no mention of it in the press at the September 25 meeting, where there was a private meeting. So the possibility is that it was not discussed publicly, because if it was, there would have been a press release on it. That took place after the September 25 meeting. So the possibility is that there was no discussion. And I think it's a fair question to say that you can pass it off on the basis that it wasn't discussed at a public meeting. It was discussed at the private meeting. And this is only an object on my part, the reason you might not have done it in a public meeting because you were going to put it out for bids, and you didn't want to give out the price that you were going to talk in terms of paying. So I just wanted to get that out. Thank you, Mr. Chairman.

SENATOR AMBROSIO: Mrs. Stanley, before I forget, I want to go back to the August 28, 1986 meeting. The minutes of that meeting indicate that there was also a discussion with regard to plans for the proposed toll increase: "The Authority's proposal has been submitted to representatives of the Governor, who are currently reviewing the proposal." How was that proposal submitted to the Governor's office? Was it in writing? Was it orally? How was it done?

MS. STANLEY: That was probably done by the Executive Director, who probably had some form of a report that went down.

SENATOR AMBROSIO: Do you know?

MS. STANLEY: I assume that's what it was, or else-- There was also some oral conversation about it too. many gaps. SENATOR AMBROSIO: Did you have any discussion with the Governor's office?

MS. STANLEY: I probably had some discussion with-- I don't know. I could have, yes, or the Executive Director could have. I'm not quite sure whether there was-- They were ongoing discussions that didn't just take place in--

SENATOR AMBROSIO: I'm talking about discussions that you had with the Governor's office.

MS. STANLEY: Honestly, I do not know whether I discussed that with Mr. McGlynn then.

SENATOR AMBROSIO: With who?

MS. STANLEY: With Mr. McGlynn.

SENATOR AMBROSIO: So you're saying that any discussions you would have with the Governor's office would have been with Mr. McGlynn?

MS. STANLEY: Not always, because Mr. Zilocchi would speak to Mr. Weinstein.

SENATOR AMBROSIO: No, I'm talking about discussions that you had.

MS. STANLEY: That I had?

SENATOR AMBROSIO: Yes.

MS. STANLEY: I cannot tell you specifically. I mean, sometimes it would be with one, but usually my connection would be with Mr. McGlynn.

SENATOR AMBROSIO: So you have no recollection of what proposal was submitted to the Governor's office--

MS. STANLEY: I cannot tell you. I've seen so many proposals, I cannot tell you what specific proposal that one was.

SENATOR AMBROSIO: And you don't recall what representatives of the Governor's office you were talking to.

MS. STANLEY: Honestly I can't, no.

SENATOR AMBROSIO: How often do you talk to the Governor's office with regard to Authority business?

MS. STANLEY: It can depend how I mean, it can go for six or seven months, or it can go-- It just depends. There is not consistency to that.

SENATOR AMBROSIO: Well let's talk about the period of time that these minutes reflect, from August of '86 to the present time. How many times have you talked to the Governor's office with regard to Authority business?

MS. STANLEY: Oh, I couldn't tell you that. I did not add that up. I don't know.

SENATOR AMBROSIO: Are we talking about one or two times, are we talking about a dozen times, or are we talking about more?

MS. STANLEY: You're talking about way less than a dozen times.

SENATOR AMBROSIO: So somewhere less than ten?

MS. STANLEY: But you see the Executive Director also makes contact, so it does not have to do with me.

SENATOR AMBROSIO: Mrs. Stanley, The Executive Director is here to testify.

MS. STANLEY: Right.

SENATOR AMBROSIO: What we're trying to understand--

MS. STANLEY: You're asking me, I cannot tell you. All I can tell you is that it was probably less than a dozen, but I cannot tell you the specific number.

SENATOR AMBROSIO: And other than Mr. McGlynn, who else in the Governor's office have you spoken to?

MS. STANLEY: That would be my contact.

SENATOR AMBROSIO: Are you saying that there is no one else other than Mr. McGlynn?

MR. ROBINSON: Were you excluding the Governor himself?

SENATOR AMBROSIO: No. The Governor's office, he's part of his office, that's for sure.

MR. ROBINSON: Okay.

MS. STANLEY: No, Mr. McGlynn.

SENATOR AMBROSIO: Have you spoken to the Governor directly?

MS. STANLEY: Not since the January meeting of 1987.

SENATOR AMBROSIO: So you're saying from August of '86 to January of '87 you didn't speak to the Governor. You spoke to the Governor in January--

MS. STANLEY: Correct.

SENATOR AMBROSIO: --and haven't spoken to him since.

MS. STANLEY: Well, except when I made the phone call back from the Commission.

SENATOR AMBROSIO: All right, well then let's go to that January 22 meeting. That meeting was at the Governor's office, is that right?

MS. STANLEY: That is correct.

MR. ROBINSON: I'm sorry. We were getting the minutes.

MS. STANLEY: I called for the meeting, or, I asked for the meeting.

SENATOR AMBROSIO: You asked for the meeting with the Governor?

MS. STANLEY: Yes.

SENATOR AMBROSIO: And why did you do that?

MS. STANLEY: Because we wanted to go down and discuss with him the Authority's business and our need for a toll increase.

SENATOR AMBROSIO: Now, prior to that meeting, had you been in touch with the Governor's office with regard to a specific proposal, or was this going to be a brand new meeting with the Governor where you were going to discuss a toll increase?

MS. STANLEY: Well it was a brand new meeting since it was the first meeting with the Governor, but it was a compilation of all the things that we have been looking at over

the last year or so, and it was presented. Mr. Zilocchi and I went down. Mr. Zilocchi had papers and forms to put up to show the CIP program and the different variables on the toll increase, and that was what-- (inaudible)

SENATOR AMBROSIO: What did you do to prepare for this meeting?

MS. STANLEY: The staff prepared a lot of the facts on the capital improvement program, and what we wanted to present.

SENATOR AMBROSIO: And did you have a series of documents ready to present to the Governor?

MS. STANLEY: Well we had a series of, you know, things we put up on an easel, just to show where we needed to raise money and what the money was, and what our financing was. And that was it. That was not set in stone either.

SENATOR AMBROSIO: You were the one who made the contact with the Governor's office to set the meeting up. Is that right?

MS. STANLEY: Yes.

SENATOR AMBROSIO: Where was the meeting held, Mrs. Stanley, the Governor's office?

MS. STANLEY: Yes.

SENATOR AMBROSIO: And who was invited to the meeting?

MS. STANLEY: The four officers, including myself, and the Executive Director.

SENATOR AMBROSIO: And who were those four officers?

MS. STANLEY: Lionel Levey, Richard Sambol, Julian Robinson, and myself.

SENATOR AMBROSIO: And that's a majority of the Commissioners, is that right?

MS. STANLEY: Correct.

SENATOR AMBROSIO: Was there any question in your mind as the applicability of the Open Public Meetings Act as applied to that meeting?

MS. STANLEY: No, actually I was advised -- and I really can't remember who I was advised by at this moment -- but I was advised to take the officers with me so that I would not be the only person talking to the Governor, but there would be other people there. I took the officers because I felt that they were the ones that are responsible with me for talking to the Governor.

SENATOR AMBROSIO: And you don't recall who advised you of that?

MS. STANLEY: No. I thought it was Mr. Fox, but I could be totally wrong.

SENATOR AMBROSIO: Did you speak to Mr. Fox or any of the other attorneys about the meeting, in advance of the meeting?

MS. STANLEY: They were aware that we were going down, yes.

SENATOR AMBROSIO: How were they aware?

MS. STANLEY: Because I probably made them aware.

SENATOR AMBROSIO: Was the meeting set up at a work session or a closed session, where it was decided to meet with the Governor, or was it your idea alone?

MS. STANLEY: I think it was not my idea alone, no. Certainly those ideas germinate and start with the staff who request that we go find out what is going on with our financial advisors and our traffic consultants.

SENATOR AMBROSIO: How long did this meeting last?

MS. STANLEY: I guess it was roughly 45 minutes.

SENATOR AMBROSIO: And what took place at the meeting?

MS. STANLEY: As I said, we made the presentation of what we had, of what the necessities were for the Parkway, and then we had just had a general overall discussion with the Governor as to our needs.

SENATOR AMBROSIO: And did you ask the Governor for his approval on a toll increase?

MS. STANLEY: We discussed the need for a-- Of course when you're talking about the Parkway you're talking about both ramps and barriers, and the discussion, as I remember it, went on with the ramps. And of course, when we got on the barriers there was also a discussion on the gas tax, there was a discussion on the different taxes, of Port Authority, of things like that. It was a rather broad discussion.

SENATOR AMBROSIO: Other than the Governor and the four Authority Commissioners, who else was at the meeting?

MS. STANLEY: I believe Mr. McGlynn and Mr. Weinstein -- well, I meant and the Executive Director, so you knew that.

SENATOR AMBROSIO: Anyone else?

MS. STANLEY: No. I don't think so.

SENATOR AMBROSIO: Were there any minutes taken of this meeting?

MS. STANLEY: To my knowledge, no.

SENATOR AMBROSIO: Did your discussion with the Governor include a review of the proposed celebrity facility?

MS. STANLEY: Yes, it did.

SENATOR AMBROSIO: Did it include a review of the proposal to take over the State mileage?

MS. STANLEY: I don't know if we discussed that then. If it's in the minutes, we did. If it's not-- I honestly can't tell you whether we discussed that at that point in time.

SENATOR AMBROSIO: Well, tell me what you recall the discussion, and how it went--

MS. STANLEY: Generally being on the toll increase and the reception center.

SENATOR AMBROSIO: All right. Did you make a specific proposal to the Governor as far as the tolls were concerned?

MS. STANLEY: It was made in a broad sense. I mean, the discussions with the Governor were not down to the specifics and the nitty gritty. It was in a broader sense of the Parkway's needs.

SENATOR AMBROSIO: Well, you brought in charts and you had an easel, and you made certain---

MS. STANLEY: Yeah, well we showed certain areas where we were going to run out of money, and when we thought we might run out of money, and what projects we needed to do, and what the ramp increase would bring in -- what amount of money it would bring in -- and what we thought the amount a barrier increase would bring in. And those were all based on our consultants' figures.

SENATOR AMBROSIO: Those are pretty specific. What kind of specific increases were included in this proposal?

MS. STANLEY: Well probably if we were talking about the ramp increase, we would probably--

SENATOR AMBROSIO: To how much?

MS. STANLEY: We probably were talking about the 25 cents.

SENATOR AMBROSIO: And what about the barrier increase?

MS. STANLEY: I have seen so many scenarios on the barrier increase, but I think we've always been talking about a discount token. I mean, they've talking about a discount token for years and years because a one token system is the best system that works.

SENATOR AMBROSIO: Mrs. Stanley, you had one meeting with the Governor throughout this entire process. Is that right?

MS. STANLEY: Right.

SENATOR AMBROSIO: And is it your testimony that you don't recall specifically what the toll proposal was at that meeting?

MS. STANLEY: It was probably exactly what you're seeing now. It was probably the discount token at 35 cents, but I don't know whether we had all the exact figures at that point on how much it would bring it in. It was discussed in very general terms, and what we were really trying to find out

from the Governor is whether he would give us approval to start the process of one or the other of the toll increase; either the ramp of the barrier.

SENATOR AMBROSIO: Well, do you recall whether or not the 50 cent toll was discussed at that time?

MS. STANLEY: If it was discussed, it was discussed as a discount token; always, and it always has been.

SENATOR AMBROSIO: Fifty cent toll with a discount 35 cent token, which is what your--

MS. STANLEY: Because I think at the time we also discussed the problems with a two coin system and things like that, but I cannot tell you specifically. I honestly cannot tell you whether each specific item was discussed at that meeting.

SENATOR AMBROSIO: These charts and graphs that you presented to the Governor, where are they--

MS. STANLEY: I do not have them and I do not know where they are. Maybe Mr. Zilocchi can remember.

SENATOR AMBROSIO: Did you discuss short-term financing with the Governor at that meeting?

MS. STANLEY: I think we told him that we had some needs, now whether we discussed the short-term financing-- I know I definitely discussed it with him when I called him back.

SENATOR AMBROSIO: I'm talking about the January 7 meeting. January 7 is when you met with the Governor, is that right?

MS. STANLEY: Yes.

SENATOR AMBROSIO: Now do you recall whether you discussed the short-term financing needs of the Authority with the Governor?

MS. STANLEY: Yes, we did. It says here that we decided that the Authority should obtain temporary-- No, that wasn't-- At the meeting, no. I honestly can't tell you whether we discussed temporary financing with him then.

SENATOR AMBROSIO: Isn't it a fact, Mrs. Stanley, at that meeting you presented to the Governor the proposal that you would increase the ramps to 25 cents, and put in barrier tolls of 50 cents with a 35 cent discount?

MS. STANLEY: We explained to him that that was certainly one of the proposals that was before him, and that had been recommended to us by Vollmer, but nothing was set in stone.

SENATOR AMBROSIO: Did you give any other proposals other than that one?

MS. STANLEY: Well, we had looked at other proposals, and I do not remember that day whether we had the proposals. There was also the 30 cent with the 50 cents. There were other variables too.

SENATOR AMBROSIO: And you don't recall, other than the proposal that I just outlined, whether any other proposal was submitted to the Governor at that meeting?

MS. STANLEY: To the best of my ability, no.

SENATOR AMBROSIO: Did the discussion with the Governor include the review of the-- I'm sorry. I asked that already, about the short-term financing. You don't recall whether it talked about short-term financing?

MS. STANLEY: I don't believe that we did at that meeting with him.

SENATOR AMBROSIO: Was there a discussion about the need for long-term financing, and the capital improvement program that the Parkway was--

MS. STANLEY: Always when you're looking at the capital improvement program you are looking at financing of some kind, of bonding of some kind.

SENATOR AMBROSIO: But at that meeting did you discuss it with the Governor?

MS. STANLEY: Only in the sense that at some point we needed a toll increase, and that we could not get a toll increase unless at some point we did bond.

SENATOR AMBROSIO: You don't have any recollection of direct proposals that were made by you? You were going to meet with the Governor about the financing needs of the Authority--

MS. STANLEY: No. We really went in for conceptual approval of the need for a toll increase.

SENATOR AMBROSIO: Was there any discussion at that meeting about the upcoming fall elections?

MS. STANLEY: The word election, to my knowledge, was not used.

SENATOR AMBROSIO: Let's go to the January 22, 1987, meeting. If you would pull out the minutes for that. You've reviewed these minutes?

MS. STANLEY: Yes, I've looked at them.

SENATOR AMBROSIO: I'm talking about the minutes for the closed meeting. Do you see anything in these minutes that is not in accord with your recollection of events?

MS. STANLEY: Well the use of the word "directives." I think actually Mr. Fox covered this. And as to whether the words "end of 1987" was used or whether it was said to "hold off as long as possible," that's an interpretation. That's what the scrivener wrote down. There are several different interpretations on that.

SENATOR AMBROSIO: Now, let me get this straight. Under the financing section, the scrivener who prepared these notes -- and again, it appears to be Mr. Fox. This is a report that you gave to the Commissioners concerning the meeting that you had with the Governor. Is that right?

MS. STANLEY: (affirmative response)

SENATOR AMBROSIO: And if I'm reading properly it says, "Chairman Stanley reported that she, Commissioners Levey, Robinson, and Sambol, and Executive Director Zilocchi, recently met with the Governor to review the Authority's proposal for a ramp toll increase and a barrier toll increase."

MR. ROBINSON: Excuse me. That word is "proposals."

SENATOR AMBROSIO: Proposals, fine. "After reviewing the relevant facts and figures, the Governor approved the Authority's proposal for the ramp toll increase, which may be implemented immediately. Is that true?"

MS. STANLEY: Well, that's where there's another variation in what was really meant.

SENATOR AMBROSIO: Well, I can't hear you, Mrs.--

MS. STANLEY: What I understand is that he gave the approval to start the process if that's what we wanted to do. Approval is not approval, because he can't do that statutorily. He can only give the approval to start the process.

SENATOR AMBROSIO: What was your understanding as to what the Governor said about the ramp tolls?

MS. STANLEY: That we could start the process.

SENATOR AMBROSIO: To raise the ramps from 10 cents to 25 cents, or 15 to 25?

MS. STANLEY: Correct.

SENATOR AMBROSIO: And did he indicate to you that if the process went along he would approve it?

MS. STANLEY: Generally, yes.

SENATOR AMBROSIO: What is the process?

MS. STANLEY: Well, the process is a legal process. You have to go out and you have to have public notices, and you have to go through, actually, what we've just been through. You have to get the prior written approval, and you have to get all sorts of-- You have to have your figures all in order. It's a process that leads up to the prior approval letter, and then from there on it leads to hearings, from there on it leads to the Commissioners voting on it, and the Governor approving it.

SENATOR AMBROSIO: The ultimate conclusion of the process is the Governor giving you written approval?

MS. STANLEY: After prior approval and the hearings etc., yes.

SENATOR AMBROSIO: Right. And the Governor basically said to you, "I will give you written approval--"

MS. STANLEY: "I will give you prior approval to start the process."

SENATOR AMBROSIO: "And if you get through the process, and everything goes the way it's supposed to go legally, I will sign off and give you approval."

MS. STANLEY: He never actually said that. He just said he would give us approval to start the process. We didn't go into whether--

SENATOR AMBROSIO: Well let me ask you, did you need the Governor's approval to start the process?

MS. STANLEY: Yes, you do.

SENATOR AMBROSIO: To start the process?

MS. STANLEY: To start the process, yes, you need the Governor's approval.

SENATOR AMBROSIO: Do you have any authority for that, Mrs. Stanley?

MS. STANLEY: I was told that legally, that that's what we needed. You can't start the process without the Governor's approval.

SENATOR AMBROSIO: Is the approval that you're talking about to start the process, do you need that in writing from the Governor?

MR. ROBINSON: You mean, what was she advised, Senator?

SENATOR AMBROSIO: If she believes that you had to have prior approval from the Governor to start the process, I want to know what her understanding of that prior approval is. Is it a telephone call saying, "Yeah, go ahead," or do you need a letter from the Governor to start the process?

MS. STANLEY: Well, it depends. I mean, first you need the prior approval to look into it. Now, whether that has to be in writing, or by word of mouth, I'm not sure. I know you need prior approval written -- as we received it in November -- to then begin the other process of approval.

SENATOR AMBROSIO: All right. Did you get prior approval to start the process?

MS. STANLEY: At the meeting he said, "You may start the process and look into it." Yes.

SENATOR AMBROSIO: Was that in writing?

MS. STANLEY: No.

SENATOR AMBROSIO: Did you ever get it in writing?

MS. STANLEY: No.

SENATOR AMBROSIO: Did you understand at the time that the Governor gave you prior approval that he would approve the ramp toll increase?

MS. STANLEY: That that was basically the gist of it. Yes, he would.

SENATOR AMBROSIO: Continuing on with meeting of January 22, the closed portion: "The Governor also approved the Authority's proposal for a barrier toll increase, provided that the Authority not proceed with, or implement that increase, until the end of 1987." Now, do you have any problem with that statement?

MS. STANLEY: In that discussion; my recollection was, as I said, that we discussed many other parameters. We discussed the gasoline tax, we discussed the other taxes we're coming before, and I thought his words were, "Hold it off as long as possible." He might have said, "The end of 1987," but that was what I heard. In fact, if you go back over prior notes, it's always, "The barrier increase, hold it off as long as possible."

SENATOR AMBROSIO: Did you walk away from the meeting with the Governor with the understand that you would implement a barrier toll increase, but that you were going to delay it?

MS. STANLEY: It was simply to hold it off as long as possible, and keep coming back with figures, and just to hold it off as long as possible.

SENATOR AMBROSIO: Was it your understanding that when you left the Governor's office that day, that the Governor was aware that you were going to begin a process to raise barrier tolls?

MS. STANLEY: At some point down the road, yes.

SENATOR AMBROSIO: And that those figures were the 50 cent discounted token?

MS. STANLEY: I think at that point that's what we were looking at, but that was also not set in concrete because we never really saw the full schedule of what was proposed until -- as Mr. Fox said -- the October meeting of 1987.

SENATOR AMBROSIO: Now at that meeting of January 22, you had a discussion with the Commissioners as to how to implement the decisions that were reached at the Governor's office. Is that right?

MS. STANLEY: Yes.

SENATOR AMBROSIO: And during the course of that meeting, you left and made a phone call to the Governor. Is that right?

MS. STANLEY: Yes.

SENATOR AMBROSIO: Did you speak to the Governor directly?

MS. STANLEY: Yes, I did.

SENATOR AMBROSIO: What was the purpose of calling the Governor?

MS. STANLEY: Well because when I came back and reported, a lengthy discussion ensued. We realized that the ramp increase, according to our financial consultants, wouldn't raise enough money to continue our capital improvements; that procedurally, according to our lawyer, it was a lot of work to separate it, because you'd have to go through the whole same

process twice, and if you were going to do it you really should probably do it together; and then also to separate them, when you go out with the ramp you would have to discuss the barrier; and also the fact that if you went out for a ramp and then came back a year later for the barrier, you'd look foolish. I mean, you'd say, "These are our needs right now, but now all of a sudden we've decided that we have other needs." So, it was decided to do them together. We felt that we could hold it off, that we could save the motoring public paying the extra five or ten cents -- whatever it was for the ramp increase -- and that's what we did. And the Governor agreed.

SENATOR AMBROSIO: In other words, you made a decision amongst the Commissioners that you would not do it in the two phases that you had agreed upon with the Governor -- a ramp increase and then a barrier increase -- and you wanted to do them both together for the reasons that you just specified.

MS. STANLEY: Correct.

SENATOR AMBROSIO: And you called the Governor to get his approval?

MS. STANLEY: Correct.

SENATOR AMBROSIO: And did he approve it?

MS. STANLEY: He said he understood the concept.

SENATOR AMBROSIO: Senator McNamara, yes?

SENATOR McNAMARA: Your December 18, 1986 minutes--

MR. ROBINSON: Was that December, Senator?

SENATOR McNAMARA: Yes, December 18.

MR. ROBINSON: Just a minute.

SENATOR McNAMARA: On page three.

MR. ROBINSON: Thank you.

SENATOR McNAMARA: I'm just curious, because you report in that first paragraph that, "As part of this discussion, the Chairman further reported that the Governor's office at this point appears to be opposed to a barrier toll increase, but would be in favor of a ramp toll increase in

1987." What happened between December 18, 1986, and January 22, 1987?

MS. STANLEY: Senator, not much difference happened. It was the same thing. We went in--

SENATOR McNAMARA: Well no, because this says he was opposed to a barrier toll increase.

MS. STANLEY: Well, he agreed to it, but he said to hold it off as long as possible. Right there they are just specifically saying 1987.

SENATOR McNAMARA: See, I guess--

MS. STANLEY: That's a year, so I mean I don't know.

SENATOR McNAMARA: It's not a year. It's a month. We're talking one month. We're talking December of '86 to January of '87--

MS. STANLEY: Right. He'd be in favor of a--

SENATOR McNAMARA: --that he is in favor of a ramp toll increase, but it's very specific that he appears to be opposed to a barrier toll increase. Now, what is it that changed the Governor's position in that 30 days?

MS. STANLEY: As I understand it, he was not in favor of a barrier toll increase in 1987, which is basically what I said. He said, "Hold it off as long as possible." So it could have gone on into 1988.

SENATOR AMBROSIO: Mrs. Stanley, just following up on Senator McNamara's question, when you met with the Governor on January 7, there was no other -- there was a consideration that you were going to present a package to the Governor, a plan for increasing the tolls, both barrier and ramp. Is that right? (no response) Was it the Governor's suggestion that you do the ramp first and the barrier later?

MS. STANLEY: In the discussion, that was what he ended up saying. Whether it came from him or his staff, I can't tell you that, sir.

SENATOR AMBROSIO: I guess the point I am getting at is, prior to the meeting with the Governor on January 7, had the Highway Authority considered the two-stage increase, or did that first come up at the meeting in the Governor's office?

MS. STANLEY: Oh, no, we had looked at just a ramp increase before; you know, what it would do.

SENATOR AMBROSIO: But that was not my question. My question was on the two-stage increase. You make a decision that you were going to increase both tolls, but that you weren't going to do them together. That was reached at the Governor's office on January 7. Isn't that right?

MS. STANLEY: That was the discussion with the Governor, yes.

SENATOR AMBROSIO: Prior to that meeting, was there any discussion amongst the Authority to do it in two stages?

MS. STANLEY: I think we had always sort of thought of doing it in two stages -- the ramp and then the barrier. But then as our capital improvement program grew and grew and grew, we saw that we didn't have enough money to fund our capital improvement program without doing them together.

SENATOR AMBROSIO: So, then, the change came in the January 22 meeting?

MS. STANLEY: It came, as I said to you, among discussion with the Commissioners and with legal counsel about procedurally, and the needs of what the ramp toll increase would raise.

SENATOR AMBROSIO: When the minutes of the January 22 meeting reflect that the Governor approved of the proposal, that was based upon your conversation with the Governor by phone, in which you suggested that the Commissioners did not want to do it in one step; they wanted to do it in two steps. They wanted the ramps first, and the barrier later, and the Governor approved it.

MS. STANLEY: No, we wanted them together.

SENATOR AMBROSIO: I'm sorry, do it together, rather than separately. You reported back to the Commissioners that the Governor approved it. ~~...the two-stage increase... and that first~~ MS. STANLEY: He approved it conceptually, yes?

SENATOR AMBROSIO: What does that mean to you?

MS. STANLEY: Well, because he didn't give-- I mean, he said yes, if that is the best way to go -- you know, in your judgment, that is the best way to go. He had said to us specifically to hold off the barrier as long as possible. So obviously, by putting the ramp with the barrier, we were holding them both off as long as possible.

SENATOR AMBROSIO: And the Governor approved that?

MS. STANLEY: Yes.

SENATOR AMBROSIO: Now, it was after that that the Authority undertook some short-term financing. Is that right?

MS. STANLEY: We started looking into short-term financing. We didn't actually do it until August.

SENATOR AMBROSIO: August of what year?

MS. STANLEY: August, 1987.

SENATOR AMBROSIO: How much did the Authority borrow at that time?

MS. STANLEY: Fifty million.

SENATOR AMBROSIO: What was the Authority's plan to pay back that \$50 million, at that time?

MS. STANLEY: I would say there were several ways you could do it. Obviously you could do it through cutting your operating budget. You could do it through cutting your capital improvement program. Or, you could do it with the ramp increase.

SENATOR AMBROSIO: What was your plan?

MS. STANLEY: I always wait and listen to all of the advice of the financial consultants. It is a very difficult thing when you are dealing with the Parkway to have any other plans than what your financial consultants bring to you, and your traffic consultants.

SENATOR AMBROSIO: Ms. Stanley, when you borrowed the \$50 million, did you have a plan in place to pay it back?

MS. STANLEY: That would be being developed by the financial consultants. Was there a specific plan? No. It was probably understood, from Mr. Johnson, that there was a letter there that would allow a ramp toll increase to do it, but we didn't specifically say that.

SENATOR AMBROSIO: So, what you're saying, is that the Authority borrowed \$50 million and did not have a plan in place to pay it back?

MS. STANLEY: Morgan Guaranty allowed us to borrow it.

SENATOR AMBROSIO: Well, that is not my question. My question is: Did the Authority have a plan in place to pay back the \$50 million?

MS. STANLEY: As I said, we could do it by the three methods. Did we have a plan in place? No, because we didn't, at that point, have the go-ahead for the ramp approval from the Governor, except to hold it off as long as possible. So, we kept developing our figures all during that time.

SENATOR AMBROSIO: Well, now I am confused, because your statement before was that you didn't have approval from the Governor; you had approval to start the process. That would sort of imply that you may not get the approval down the road if the process turned out to indicate that you were not entitled or, for some reason, the increase was not going to go forward. Now, isn't it the prudent thing to do not to borrow money unless you have the mechanism in place to pay it back? And, if you didn't have the approval of the Governor, you couldn't raise the tolls.

MS. STANLEY: Obviously we hoped to have the, you know, full approval of the Governor, but if not, as I said, we could pay back the \$50 million by other methods.

SENATOR AMBROSIO: What other methods could you have used?

MS. STANLEY: As I said, cutting the operating budget.

SENATOR AMBROSIO: By \$50 million?

MS. STANLEY: No, but you can cut your operating budget so you will have less debt service and can carry on certain things. Yes, by cutting your operating budget. We are doing that right now.

SENATOR AMBROSIO: And it is your testimony that if you didn't get the ramp increase, you could have-- If you didn't get the toll increase, you could have met your financial obligations?

MS. STANLEY: I didn't say that is exactly what it is, because we have, you know-- You're asking me now very technical financial questions, which I rely upon my financial consultants for. But there are other methods you could have used. Yes, obviously the best way is to do it against the ramp increase.

SENATOR AMBROSIO: But you also said there were other ways to do it without a ramp increase. Now, obviously, if you could pay that money back without a ramp increase, I would like to know how you could do it.

MS. STANLEY: Those were just ways-- As time went on we were spending more money, too.

SENATOR McNAMARA: It's like paying back any other debt. I mean, they loaned them the money. She has already answered that--

SENATOR JACKMAN: Become a loan shark, and lend it out every week.

SENATOR McNAMARA: --they would find a way to pay it back.

SENATOR AMBROSIO: Senator McNamara wants to--

SENATOR McNAMARA: I am trying to think of when the Independent Authorities meeting-- I know we met last April, and I think it was again last December, wasn't it?

MS. STANLEY: Yes.

SENATOR McNAMARA: I believe at that meeting, Mr. Johnson-- He is your financial advisor? (no response) The question of the ramp toll increase came up. If my recollection serves me well, I will recall that he testified, in answer to a question I made, that obviously the bank, no matter what the relationship is, would not lay out \$50 million, unless they were assured that there would be a way of them getting the funds repaid to them. I believe he went so far as to state-- I had asked whether the language in the minutes meant that the Governor approved the ramp toll. He felt the word "approved" was too strong. He did testify that it was necessary to represent to the bank that, in fact, if the Authority needed the money, the Governor assured -- assured -- that the ramp toll increase would be approved.

MS. STANLEY: I think the report was a letter. It said it was approved conceptually.

SENATOR McNAMARA: I just asked someone to get a copy of the minutes of that meeting. I will wait until I get it, because--

MS. STANLEY: I think the letter was from the Treasurer, and I think it said "conceptually."

SENATOR McNAMARA: I'm talking about the testimony of your financial advisor. To be very honest with you, you know, I will rely on the minutes then, if we have a dispute as to what he may have said, because he advises--

MS. STANLEY: Right, but I just know there was a letter from the Treasurer, in which she said it was her understanding that the ramp increase was approved conceptually.

SENATOR McNAMARA: That was not the question that Senator Ambrosio was after, as to how you were going to pay back the money. I know that question was asked at the Independent Authorities Committee. I am certain -- again, I will apologize if I am wrong -- that Mr. Johnson represented to the Committee that, in fact, it was approved, if needed. It was not a suggestion that it would be done--

SENATOR DiFRANCESCO: What was approved?

SENATOR McNAMARA: The ramp toll.

SENATOR DiFRANCESCO: How could-- Do you mean the bank relied upon what Mr. Johnson said about a toll increase?

SENATOR McNAMARA: Let me dig out the--

MS. STANLEY: It also said, in the same minutes, that Mr. Johnson met with the Governor, and he didn't.

SENATOR AMBROSIO: Senator Lynch would like a few minutes, if you would yield.

SENATOR LYNCH: I'm sorry for going out of turn, but I have to go to a meeting downstairs, and my boss said I have to be there. This morning I got beat out of a turn on Mr. Fox, because I had to go to another meeting, so let me try to get a couple of minutes in.

I, like everyone else, am concerned about the obvious violations of the Sunshine Law. I am concerned about the financing methods employed, with private placements and so forth. Some of those issues have been beaten to death, particularly in the area of the violations of the Sunshine Law. I want to sort of just touch on those very briefly, and maybe set a stage for later on when you come back on some other areas that I think represent the pattern that has developed in this Authority, which has nothing to do with Republicans or Democrats. It has to do with an Authority that has gotten out of control; an Authority that has taken on a life of its own; an Authority that was faced with the question being raised by me and the Legislature -- by myself on behalf of the Legislature last spring, about the power of this Authority to develop a hospitality center in the face of some clear changes in the law back in the late '60s. In the face of that raising of an issue, this Authority not only didn't bring a halt to that project, but went forward faster than it had been going before; worked weekends, lots of overtime, and sped to conclusion.

Senator Ambrosio raised the issue before of the meeting of September 25, 1986, which apparently is the first glimpse we can gain of the hospitality center issue in any of the minutes, ~~at which time it was presented to the Commission~~ (sic) in ~~closed session~~ -- a model and a plan. That plan was complete enough to be able to go out the next day with specifications for bids to be submitted in response thereto -- complete specs.

Had this hospitality center ever been discussed at any other Commission (sic) meeting, in public or in private, prior to September 25, 1986?

MS. STANLEY: I know it was discussed at the Engineering Committee, which is a subcommittee. I believe all--

SENATOR LYNCH: Where did the idea for this hospitality center germinate, from you?

MR. ROBINSON: Hold it a minute. Mr. Chairman, I have in front of me the Senate resolution establishing this Committee, and I don't see anywhere within the scope of it -- so I ask for a ruling from the Chair -- whether this is proper cross-examination. I don't see anything within this resolution calling for a quiz on a hospitality center. So, I ask for a ruling.

SENATOR LYNCH: First of all, Mr. Robinson--

MR. ROBINSON: My application is to the Chairman.

SENATOR LYNCH: First of all, Mr. Robinson, I can respond to you, because I have a right to be heard. First of all, this does deal with the issue of Sunshine, because in the very minutes of September 25, 1986, it says this was a matter of contract. I don't know how the development of plans and a model for a proposal to authorize going out to bid for a hospitality center has anything to do with contractual discussions.

Secondly, I think the outline of the power of this Committee is broad. Third, you, yourself, were directly

involved in this issue, by having opined about which was the better of the two opinions involved, namely Mr. Porrioni's or Mr. Fox's. I don't see where there is any problem with getting into this area of discussion, and I would ask the Chair to allow me to go down this road.

SENATOR AMBROSIO: I certainly will.

MR. ROBINSON: I am asking for a ruling from the Chair on the scope of the resolution.

SENATOR AMBROSIO: I think this line of questioning is right on target to the charter this Committee has, particularly in terms of not only the Open Public Meetings Act, but the relationship between this decision and the decision to raise tolls. I mean, it is clearly within the scope of this Committee's authority, and I rule that the question is in order.

MR. ROBINSON: I respectfully disagree.

SENATOR AMBROSIO: Did you finish your question, Senator Lynch?

SENATOR LYNCH: I'm not sure.

MR. ROBINSON: It wasn't a question; it was more of a speech.

SENATOR LYNCH: Is that your opinion, Mr. Robinson, as it was your opinion about the fact that Legislative Services' opinion on the development of this hospitality center was wrong, and Mr. Fox's was right?

MR. ROBINSON: My letter of opinion stands for what it says.

SENATOR AMBROSIO: I think, if I might-- The question that was presented had to do with whether or not there was any public discussion, or private discussion, of this proposal, prior to the September 25 meeting. As I recall, that was the bottom line of your question. I think that is a perfectly proper question.

MS. STANLEY: The question was whether there was any public or private-- I know it was shown to the different

Commissioners. Maybe, Senator Lynch, you weren't in the room when I came in. When I became a Commissioner, they were discussing a celebrity house then, so it was not my--
SENATOR LYNCH: Who are "they"?
MS. STANLEY: The other Commissioners.

SENATOR LYNCH: All of the other Commissioners were there then?

MS. STANLEY: Sure.

SENATOR LYNCH: So, that was part of the discussions of what year?

MS. STANLEY: Some of those Commissioners are not there now.

SENATOR LYNCH: What minutes would it be? What era -- 1983, 1984?

MS. STANLEY: No, I came in in 1982, and I remember discussions of that, because Celebrity House was always felt to be inadequate.

SENATOR LYNCH: So, sometime after you took over, Celebrity House was discussed by the Commissioners. At a public meeting, or at a private meeting?

MS. STANLEY: I think it was discussed, you know, more in subcommittees. The idea was always there. I mean, I remember walking and looking at sites. I don't remember who exactly on staff was interested in it. There were many different people.

SENATOR LYNCH: Who asked for the development of specifications and a model?

MS. STANLEY: That would have come from the Engineering Committee.

SENATOR LYNCH: And did your in-house engineering office prepare the specifications and the model, or did you go outside?

MS. STANLEY: Well, we finally went out and hired an architect.

SENATOR LYNCH: Well, you had to hire an architect before you had the specifications and model prepared, didn't you?

MS. STANLEY: Yes. That was probably done at a public meeting, but I am not sure. I think yes. I mean, I know, yes, we did hire the architect--

SENATOR LYNCH: So, somewhere before September 25, 1986, you're saying that this was discussed at a public meeting?

MS. STANLEY: Yes.

SENATOR LYNCH: Okay. At the time it was discussed at the public meeting, was there any discussion as to the history of your powers, namely the powers of the New Jersey Highway Authority, and could it go forward and develop this hospitality center under its enumerated powers?

MS. STANLEY: Yes, sir, we did ask legal counsel whether we had -- whether we were legally correct to go ahead with this. We would not have gone ahead with it without having legal approval.

SENATOR LYNCH: But you're saying now, at this point in time, contrary to earlier, I think, that prior to September 25, 1986, you did discuss the hospitality center issue at a public meeting?

MS. STANLEY: If we went out to bid with the architect, yes, it was probably discussed then.

SENATOR LYNCH: Well, it seems from the--

MS. STANLEY: I do not have those minutes in front of me.

SENATOR LYNCH: --meeting minutes of September 25, which was an exempt meeting, that you agreed that day, or you decided that day, not to go out to the public portion of that meeting, but would rather go out to bid the next day, and receive those bids at a public session in October. Correct?

MR. ROBINSON: What month is that, Senator, so we can get the minutes?

SENATOR LYNCH: September 25, 1986.

MR. ROBINSON: All right, wait until we get them.
(pause) All right, we have them. May we have the question again, please?

MS. STANLEY: Yes. That was probably done at a public

SENATOR LYNCH: On September 25, 1986, at this exempt session, you decided that you would go out the next day with the specifications to ask for bids, and those bids would be received at a public meeting in October of 1986.

MS. STANLEY: Yes, and it went on to say that we would bring it to the public when we would award the contract, and that, I guess, is what we did.

SENATOR LYNCH: In other words, you would advise the public that you were going to go out with this, at the time you awarded the contracts? What I am concerned about is, were you concerned this day -- on September 25, 1986 in this exempt meeting -- that questions would be raised as to whether or not the Authority had the power?

MS. STANLEY: We had already asked our legal counsel whether we had the right to do this.

SENATOR LYNCH: I didn't ask you that. I said, were you concerned, at this exempt meeting on September 25, 1986, that if you went out in the public session the issue would be raised as to whether or not you had the power?

MS. STANLEY: I guess we were confident in the fact that we did have the right through advice of legal counsel.

SENATOR LYNCH: You were not concerned?

MS. STANLEY: I said we were confident that we had the right through the advice of legal counsel.

SENATOR LYNCH: Were you aware of the history of this legislative authority that the New Jersey Highway Authority has, that had been limited drastically through some amendments that had been made -- in 1968, I believe?

MS. STANLEY: I think those questions were asked, and we were still advised by legal counsel that we had the right.

SENATOR LYNCH: You were advised of that. Had you discussed it with previous Chairmen of the Authority as well -- as to the history?

MS. STANLEY: No, I had not.

SENATOR LYNCH: Had you ever discussed it with the Chairman from the time, I guess, that this was in controversy -- Mr. Tonti?

MS. STANLEY: No, I did not discuss it with Mr. Tonti.

SENATOR LYNCH: You never had any discussions with Mr. Tonti about the development of this hospitality center?

MS. STANLEY: I don't believe so.

SENATOR LYNCH: Ms. Stanley, did you answer "no"?

MS. STANLEY: With Lou Tonti?

SENATOR LYNCH: Yes.

MS. STANLEY: Not that I recall.

SENATOR LYNCH: In these minutes, it says that Commissioner Levey raised the question of whether projections had been prepared showing the anticipated rate of return from this hospitality center. Executive Director Zilocchi reported that such projections had been prepared, and that based upon certain assumptions, the facility would pay for itself within 10 years, which I assume meant you would not have to charge this off to the toll road, in effect.

Was one of those assumptions, Ms. Stanley, that you were going to be able to -- or maybe already had -- create a foundation that would pay for part of the costs of this hospitality center?

MS. STANLEY: I don't recall that. I think you will have to question Mr. Zilocchi further on that.

SENATOR LYNCH: Isn't that one of the assumptions?

MS. STANLEY: That--

SENATOR LYNCH: That you were going to utilize the foundation to pay for some of the costs of this facility?

MS. STANLEY: No, the foundation strictly pays for the shows that go for the senior citizens and the school children.

SENATOR LYNCH: How was this facility going to pay for itself without the foundation underwriting it?

MS. STANLEY: Because we would be able to rent it out. We would be able to take in money for that.

SENATOR LYNCH: That is going to pay for the entire cost of this?

MS. STANLEY: I do not have in front of me--

SENATOR LYNCH: Hasn't part of the cost of this hospitality center already been underwritten by the Highway Authority's construction funds?

MS. STANLEY: I don't know that it has specifically been taken from certain construction funds, but that has been in the--

SENATOR LYNCH: Well, where did the money come from?

MS. STANLEY: The history in the past, when the--

SENATOR LYNCH: Where did the money come from?

MR. ROBINSON: She hasn't finished her answer, Senator.

MS. STANLEY: When the arts center was first built, I'm sure it came from the construction funds, yes, and was paid back.

SENATOR LYNCH: But the law says you can't build any other facility after the arts center, as amended in 1968.

MS. STANLEY: That was not--

SENATOR LYNCH: You have gone forward and created a foundation which I believe is above your powers. I see no opinion saying you have the power to create a foundation. You have created a celebrity house, which you call a replacement facility, the original facility having been a storage house, which was rehabilitated to allow for some receptions, but was nowhere near the scale of this facility. Indeed, I believe the storage house isn't even being torn down.

MS. STANLEY: No, we are going to utilize it for something else.

SENATOR LYNCH: So it is not a replacement facility at all without the foundation underwriting it?

MS. STANLEY: I respectfully disagree, because I think we had advice from legal counsel, and that is what we depended on. That is all I can say to you, Senator Lynch.

SENATOR LYNCH: You had advice from legal counsel that you didn't violate Sunshine Laws. You had advice from legal counsel that you could discuss toll increases under the guise that somehow it was related to public safety. You had advice from legal counsel that you could create a foundation. Did you have advice from counsel when you tried to divert funds from Mobil Oil to your foundation, instead of going to the toll road and to the construction funds? Did counsel tell you that that was okay, too?

MS. STANLEY: No, I think it was simply one of the options; it was never foolproof, safe proof, or anything. It was simply one of the options that we considered.

SENATOR LYNCH: The fact of the matter is, that is what you requested of Mobil Oil. In fact, it was Mobil Oil's attorney who wouldn't let them make the payment of \$5 million to your foundation, knowing full well that you didn't have the power to charge it off to that.

MS. STANLEY: I was not in on those negotiations.

SENATOR LYNCH: Wasn't it your idea to divert some of these funds from Mobil to the foundation?

MS. STANLEY: It was one of the options that was looked at, but it simply never happened.

SENATOR LYNCH: It didn't happen because Mobil wouldn't let it happen. Did your attorney give you an opinion that it was okay for you to do that?

MS. STANLEY: No.

SENATOR LYNCH: No?

MS. STANLEY: It was okay to do what?

SENATOR LYNCH: Did your attorney tell you you didn't have the power to divert that \$5 million from Mobil Oil for part of their franchise arrangement, or whatever you call it, to your foundation?

MS. STANLEY: All I know is, it was one of the options, and it was decided not to do it.

SENATOR LYNCH: Did your attorney tell you it was a viable option, one that was legally possible?

MS. STANLEY: It simply was one of the options, and it was decided against.

SENATOR LYNCH: Did he tell you it was legally possible?

MS. STANLEY: I do not recall.

SENATOR AMBROSIO: Are you finished, Senator Lynch?

SENATOR LYNCH: One second. Getting back to the discussion you had with Senator Ambrosio about the January meeting and your discussion with the Governor, on the phone, I believe, did you discuss with the Governor at that time the reception center?

MS. STANLEY: Yes.

SENATOR LYNCH: And, did you decide that the reception center should be built now, namely, you know, soon thereafter, to avoid a direct relationship with the toll increase?

MS. STANLEY: That was one of the options, yes.

SENATOR LYNCH: Was that one of the things that was decided at that January meeting, as so stated in your minutes?

MS. STANLEY: It was just to keep it as far away from the toll increase, yes, so that it would--

SENATOR LYNCH: You didn't want anybody to in any way believe that this reception center would be a drain on the toll road, did you?

MS. STANLEY: If we didn't put a nickel into that reception center, we would still have the need for a toll increase.

SENATOR LYNCH: But you would not have had-- The perception was that you were trying to avoid, somehow or other, this hospitality center, which ultimately cost \$6.5 million-- for part of MS. STANLEY: No, a five and a half whatever you call it. SENATOR LYNCH: --that this hospitality center was not going to in any way be charged off to the toll road. It was not going to be a liability to the toll road.

MS. STANLEY: Because we had a report that said it would pay itself off in 10 years.

SENATOR LYNCH: Based upon certain assumptions, one of those assumptions being that you could divert funds which otherwise would have gone to the toll road, to the foundation, part of which was the \$5 million from Mobil Oil.

MS. STANLEY: I think the \$5 million is a one-time thing. We should have a return on our investment shortly thereafter. Apparently, also, we did discuss the celebrity house in October of '84 at an Open Public Meetings Act.

SENATOR LYNCH: Ms. Stanley, obviously we are going to get back into these areas again.

MS. STANLEY: I just want to repeat that we did have a discussion on the celebrity house back in October of '84, when we hired the architect.

SENATOR LYNCH: And the only discussion you had at that time, Ms. Stanley-- On the agenda was the hiring of an architect. Correct?

MS. STANLEY: Correct.

SENATOR LYNCH: You didn't discuss in that agenda whether or not it was within the scope of your authority.

MS. STANLEY: Because we already had advice.

SENATOR LYNCH: You didn't discuss the need for it, the rationale for it. You didn't have a feasibility study discussed at that session, did you?

MS. STANLEY: No, I think that was developed later. But, I mean, we knew what we were doing.

SENATOR LYNCH: The feasibility study, in fact, was developed by the architect, wasn't it?

MS. STANLEY: Oh, I think the feasibility study had been developed a long time before, because we wouldn't have gotten as far as having an architect if we didn't have a feasibility study of some kind to prove the need for a reception center.

SENATOR LYNCH: Well, when you discussed this issue on September 25, 1986, at a closed meeting-- Incidentally, I would like to know the rationale as to why that was a closed meeting, not open to the public. What was the exemption?

MS. STANLEY: I guess because it was a contract.

SENATOR LYNCH: What was the contract?

MS. STANLEY: The contract would have been with the reception center.

SENATOR LYNCH: What contract? There was no contract.

MS. STANLEY: Discussing the bids.

SENATOR LYNCH: You were simply saying that you were going to go out to bid; that you were going to put out specifications in the newspaper, or to the public the following day.

MS. STANLEY: That was on the advice of legal counsel, sir.

SENATOR LYNCH: But that was the meeting when you authorized the movement forward of the hospitality center. Done behind closed doors.

MS. STANLEY: On advice of legal counsel.

SENATOR LYNCH: On the advice of counsel? Was there a feasibility study that you discussed on that day -- September 25, 1986 -- at this closed session?

MS. STANLEY: There apparently was a proposal to show that it would pay off in 10 years. That is what it says in the minutes.

SENATOR LYNCH: Was there a feasibility study?

MS. STANLEY: I do not recall, sir.

SENATOR LYNCH: The statements by Mr. Zilocchi in the minutes are that based on certain assumptions-- without specifying what those assumptions were-- at this facility would pay for itself. as having an architect. If we didn't have a

MS. STANLEY: That is correct.

SENATOR LYNCH: One of those assumptions, like-- I understand that this evening the foundation is having a fund raiser.

MS. STANLEY: Yes, sir.

SENATOR LYNCH: Does the foundation sell tickets to these fund raisers? I assume it does, right? Do you sell those to your employees, vendors, consultants, and so forth?

MS. STANLEY: I have not seen the list of who is going.

SENATOR LYNCH: We have asked for the 1099s of the Authority for a period of years. We were apparently supplied with some limited number of those 1099s. Do you know whether there is any-- Has that been discussed with you and counsel, and are we going to get all of the 1099s?

MS. STANLEY: I am sure you will get everything you need. It has not been discussed with me, no.

SENATOR LYNCH: No, not everything we need; everything we asked for.

MS. STANLEY: Yes, whatever it is.

SENATOR LYNCH: How about with regard to the issue of your nature trail? Did you get an opinion from counsel as to whether that was within your power -- to build a nature trail -- with trees costing up to \$3500? Did you get an opinion on that?

MS. STANLEY: I really can't answer that. I didn't have a lot to do with the nature trail, so I don't know.

SENATOR LYNCH: Who did?

MS. STANLEY: I think Mr. Zilocchi can answer better.

SENATOR LYNCH: Who had a lot to do with it?

MS. STANLEY: I did not.

SENATOR LYNCH: Who had a lot to do with the development of the hospitality center? assumptions -- without specifying MS. STANLEY: We all did -- this facility would

SENATOR LYNCH: Sometime in 1987, I guess around the springtime maybe, your Commission authorized an emergency award of a contract for about a half a million dollars to put a fountain in at the arts center. Is that correct?

MS. STANLEY: I think it was because it was late in being put in. I am not quite sure.

SENATOR LYNCH: I asked you if that was correct. Did you award, on an emergency basis, a half a million dollars to a contractor, without bid, to put in your fountain?

MS. STANLEY: I think it was because they wanted to get it in by the season.

SENATOR LYNCH: Did you have an opinion from your attorney as to whether, first of all, you had the power at all to put in this grandiose fountain at the arts center, based upon the restrictions placed into the law by this Legislature in 1968.

MS. STANLEY: I do not know whether we went through legal counsel at that time.

SENATOR LYNCH: What was it replacing?

MS. STANLEY: It was replacing an existing fountain. The stairs were broken down, and we were fixing up the mall.

SENATOR LYNCH: This fountain that cost about a half a million dollars-- That is what I am referring to. What was it replacing, another fountain?

MS. STANLEY: I think there was an old fountain there, yeah. I am not even sure it was a fountain. I don't know.

SENATOR LYNCH: Did you have an opinion from your attorney that this was an emergency under the law?

MS. STANLEY: I can't answer that, sir.

SENATOR LYNCH: And it qualified to avoid the open public bids -- the contract laws?

MS. STANLEY: I cannot answer that. I don't know.

SENATOR LYNCH: You don't remember whether you had a--

MS. STANLEY: No, I don't remember. I guess around the

SENATOR LYNCH: A lot of things we seem to be discussing in this issue have to do with advice of counsel, don't they?

MS. STANLEY: Yes. That is what I rely on. I am not a lawyer.

SENATOR LYNCH: I have no further questions today.

SENATOR AMBROSIO: Before turning it over to Senator McNamara, I just have one comment I would like to make to you, Ms. Stanley. This advice of counsel thing can be carried too far. I would call your attention to the fact that the Open Public Meetings Act makes it discretionary as to whether, in a particular area where you are allowed to exclude the public, you want to do that. So the best your counsel can tell you is that you may exclude the public. The judgment as to whether you should exclude the public is yours. My feeling is that the philosophy behind the Open Public Meetings Act is, you should only exercise that judgment in unusual circumstances, and not carte blanche look for every excuse to go into a closed session, which is apparently what happened here.

At this time, I will turn the microphone over to Senator McNamara.

SENATOR McNAMARA: To follow up on something Senator Lynch asked, you referred to that in the minutes of 1984, you discussed the reception center. I have a copy of those minutes, and I can't find that discussion. I would like you to read to me--

MS. STANLEY: It was just handed to me, because I couldn't remember it either. It was apparently when we went out to bid with the architect. It was the public meeting of October 25, 1984.

SENATOR McNAMARA: Right. What page?

MS. STANLEY: Twenty-one.

SENATOR McNAMARA: Could you read me the excerpt in there, because we don't have that? remember whether you had a--

MS. STANLEY: It tells how the chief engineer had devised a proposal for design of a reception facility.

MR. ROBINSON: Why don't we just have her--

SENATOR McNAMARA: All right, I'll tell you-- I'm sorry, I was looking at exempt meetings.

MR. ROBINSON: No, this was a public meeting.

MS. STANLEY: This was a public meeting.

SENATOR McNAMARA: Yeah, okay. I didn't have a copy of those minutes.

MR. ROBINSON: We can read the topical head to you, if that will help you.

SENATOR McNAMARA: Yeah, it would help.

MR. ROBINSON: It just says: "Proposal, Noboru Kobayashi, AIA, Red Bank, New Jersey, architectural design services. Proposed reception facility, Garden State Arts Center, Township of Holmdel, Monmouth County. Then there is a narrative of about three paragraphs.

SENATOR McNAMARA: In one of them I read a reference, but I can't find the minutes at the moment, of a report from your Executive Director, that it would pay back -- that in 10 years you would recover the funds invested. Was that report done by staff, or was that report developed by experts outside of staff?

MS. STANLEY: I asked that of Mr. Zilocchi, but you can ask him further. He seemed to indicate to me that it had been done by staff.

SENATOR McNAMARA: Done by staff. There is a copy of that report?

MS. STANLEY: I would assume there is, sir.

SENATOR McNAMARA: I would ask that that be sent to us, through the Chair.

~~To get back to what we were talking about, that short-term financing and the \$80 million--~~ At the December 9, 1987 meeting before the Independent Authorities Committee, Mr. Johnson did state the amount of short-term financing-- the \$80 million in commitment and the \$50 million which was drawn down -- was based upon the amount of bonds that could be sold, secured solely by the revenues of a ramp increase. So, to refresh your memory on it--

MS. STANLEY: Right. That was the day he showed the letter from Feather O'Connor, in which she said she understood that a ramp increase had been approved conceptually, I believe.

SENATOR McNAMARA: Well, I think Mr. Johnson went a little bit further. It was more that he was assured that-- His response was: "Well, I will probably get my knuckles slapped by the lawyer, but I think approval might be too strong of a word." I rephrased the question to ask, was he assured that there would not have been a veto of the minutes, and his answer was, "Yes." So I take that a little deeper than a--

Okay, that is all for now.

SENATOR AMBROSIO: Ms. Stanley, in the minutes of April 23, 1987 of the closed session, there is a statement that says: "Most of the documentation requested was fairly routine." This is dealing with the--

MR. ROBINSON: Excuse me, what page is that, Senator?

SENATOR AMBROSIO: It is the April 23 meeting. I don't have the page, because I just have a quote from the minutes. I believe it was on the second page. It is dealing with the request from Senator Orechio, Chairman of the Senate Independent Authorities Committee.

MR. ROBINSON: Oh, yeah, we have it.

SENATOR AMBROSIO: "Most of the documentation requested was fairly routine. However, there was a request for Authority studies on toll increases. This raised concern."

Now, why would that raise concern?

MS. STANLEY: I honestly don't know. I don't recall that, and I don't know why it raised concern.

SENATOR AMBROSIO: "It was agreed that this matter should promptly be brought to the attention of the Governor's office for review and consultation." - Now, I assume that when they say it was agreed, that that means the Commissioners voted. Is that right?

MS. STANLEY: No, I don't think so. That could have been the recommendation of one Commissioner. I don't know. I really don't remember that. I could have been in another room. I don't know; I really don't.

SENATOR AMBROSIO: So, none of this makes any sense to you?

MS. STANLEY: I don't know why they wondered, I'm sorry.

SENATOR AMBROSIO: Were you at the meeting where this took place?

MS. STANLEY: Yes, but sometimes you do walk in and out of the room, and I don't recall that.

SENATOR AMBROSIO: As Chairman of the Authority, an issue of this matter would not have been brought to your attention?

MS. STANLEY: I just do not recall it. I do not recall what we sent down there, or what the reason was. I don't know.

SENATOR AMBROSIO: By the way, this was one week before you testified before that Committee. You don't recall any of this?

MS. STANLEY: I do not remember what was sent down there, no. Honestly, I don't.

SENATOR AMBROSIO: You don't recall any discussion about contacting the Governor's office about Senator Orechio's Committee?

MS. STANLEY: No. I did not do it.

SENATOR AMBROSIO: The minutes that are prepared-- Do you see them? Or do you know why it raises concern?

MS. STANLEY: No. "It was agreed that this matter should be handled by the Commission." SENATOR AMBROSIO: You don't see them? The Commission's office.

MR. ROBINSON: Do you mean then or now?

SENATOR AMBROSIO: After the minutes are prepared for the closed meetings, do they ever go to you?

MS. STANLEY: No. I was not aware of them until November 22. Now I get them, as do all of the Commissioners.

SENATOR AMBROSIO: Let me just go back to one other question, and then I will be finished. When you voted -- and I assume you voted to go to the temporary financing--

MS. STANLEY: Pardon, to do what?

SENATOR AMBROSIO: You voted to go to the temporary financing and raise the \$50 million. Is that right? Was that by a vote of the Commissioners?

MS. STANLEY: In August, I believe, of 1987.

SENATOR AMBROSIO: Would you have voted to raise that money if you were not sure you were going to have a toll increase?

MR. ROBINSON: Do you mean Ms. Stanley herself, or the group?

SENATOR AMBROSIO: You yourself.

MR. ROBINSON: You.

MS. STANLEY: Whether I, myself, would have-- I think I would have to tell you that I was somewhat certain that hopefully we would have a toll increase, and would pay it back. That was the advice of our financial consultant.

SENATOR AMBROSIO: The problem, Ms. Stanley, is, when you say, "I was somewhat certain that hopefully--" That boggles my mind, because I don't understand what that means.

MS. STANLEY: I don't think anything is set in stone. When you are talking about all these different variables or

ways of raising money, etc., things change. In fact, we are even changing the way now that we draw down on our construction contracts. We are finding out there were certain things that weren't put in there by staff. So, things seem to change from month to month. ~~At that time--~~ I mean, I know back in '86, we thought we wouldn't even have to borrow money until '88. It turned out we had to borrow money in '87. We still have money left out of the \$50 million. Things just constantly change. They are not set, and we have to listen to the financial consultants practically every month.

SENATOR AMBROSIO: I have nothing further. Anyone else? (no response) Thank you, Ms. Stanley.

Again, subject to being recalled at a future meeting, you are excused for now.

Mr. Robinson, I am advised that I am going to lose my Committee before we can get too far into Mr. Zilocchi's testimony. I am going to suggest that we not begin that today, because several members have other commitments they have to get to. I would suggest that we set up a new date for Mr. Zilocchi. Perhaps we can do it at a time when we are going to cover his testimony over an entire range of things, so we won't have to call him back a second time. Okay?

MR. ROBINSON: All right. I will be in touch with your staff about a new date.

SENATOR AMBROSIO: Fine.

MR. ROBINSON: Thank you.

SENATOR AMBROSIO: Thank you.

We have a couple of housekeeping things we have to do.

UNIDENTIFIED MEMBER OF COMMITTEE: Do you want to issue the chronology?

SENATOR AMBROSIO: Members of the Committee, I would like to have your thoughts as to whether you want to authorize the release of the chronology that has been prepared by our staff to the press?

SENATOR McNAMARA: I think it was an excellent chronology that was prepared. I see no reason not to release it to the press.

SENATOR AMBROSIO: Any objections? seem to change from month to month to SENATOR McNAMARA: We don't want to be cited for violations of the Open Public Meeting. (laughter)

SENATOR AMBROSIO: Okay. Senator Lynch and Senator Jackman agree also, so I guess we are unanimous on it. What else? (no response)

The Committee stands adjourned.

(MEETING CONCLUDED)