Commission Meeting
of
STATE HOUSE COMMISSION

LOCATION: Committee Room 8
State House Annex
Trenton, New Jersey

DATE: October 23, 2014
9:00 a.m.

MEMBERS OF COMMISSION PRESENT:

Amy E. Melick, Chair
Senator Bob Smith
Senator Gerald Cardinale
Assemblyman Paul D. Moriarty
Assemblyman David P. Rible
Charlene M. Holzbaur
Robert A. Romano

ALSO PRESENT:

Robert J. Shaughnessy Jr.
Secretary

Gary A. Kotler
Counsel

Meeting Recorded and Transcribed by
The Office of Legislative Services, Public Information Office,
Hearing Unit, State House Annex, PO 068, Trenton, New Jersey
STATE HOUSE COMMISSION
PROPOSED MEETING AGENDA
~ ~ October 23, 2014 - 9:00 AM ~ ~
Committee Room 8, Third Floor
State House Annex, Trenton, New Jersey

CALL TO ORDER:

~ Amy E. Melick, Special Counsel, Governor's Office
  (on behalf of Governor Chris Christie)
~ Robert A. Romano, Deputy State Treasurer
  (on behalf of State Treasurer Andrew P. Sidamon-Eristoff)
~ Charlene M. Holzbaur, Director, Office of Management & Budget
~ Senator Gerald Cardinale
~ Senator Bob Smith
~ Assemblyman Paul D. Moriarty
~ Assemblyman David P. Rible

OLD BUSINESS:

1. Approval of the June 16, 2014 State House Commission Meeting (SHC)
   Minutes – The verbatim record of the June 16, 2014 SHC meeting will serve as
   the official minutes.

2. Patriots Corner Tribute - Patriots Corner, P.L. 2009, c. 274

   This law establishes a permanent tribute to New Jersey residents serving in the
   United States Armed Forces, their reserve components and the New Jersey
   National Guard. The law provides that the Commission will establish: 1) a
   prominent location for the tribute within the State House, 2) the type and
   design of the tribute and what specific information is to be displayed. It also
   provides that the Commission will be responsible for obtaining the
   information needed for the tribute and maintaining the site.

   The State Capitol Joint Management Commission (JMC) by N.J.S.A. 52:34-34
   et seq. is tasked with the “responsibility to maintain, monitor and preserve the
   architectural, historical, cultural and artistic integrity of any completed project
for the restoration, preservation and improvement of the State Capitol Complex and to safeguard any related artifacts, documents and objects, maintain custody of the State Capitol Complex with exclusive jurisdiction with respect to its management and operation, including maintenance, repair, renovation, improvements, security, parking, furnishing, artifact displays and space utilization ...

Therefore, at its May 27, 2014 meeting, the JMC approved locating the Patriots Corner permanent tribute in the main corridor of the legislative wing, directly across from the water fountains. At its June 29, 2014 meeting, the JMC approved funding the expenditure in an amount not to exceed $10,000 for the creation of the tribute. A mock-up of the tribute is included in the SHC members’ briefing binders.

Today’s action seeks approval of the type and design of the tribute and the location of the tribute in the main corridor of the legislative wing on the first floor of the State House.

3. RPR 11-04, Hagedorn Psychiatric Hospital, Block 21, Part of Lot 24, Glen Gardner Borough, Hunterdon County

Requesting Party: The NJ Department of the Treasury, requests approval to lease a former employee apartment building located on the grounds of the Hagedorn Psychiatric Hospital to Freedom House, Inc.

Terms: The lease will be for a term of ten years at an annual rent of $50,000 with 2% annual increases based on the previous year’s rent. Freedom House will be responsible for all necessary repairs and maintenance up to $5,000 per year. If State or Federal grant funding is awarded for any repair or capital expense, that funding would be given first priority and could be used to satisfy the Lessee’s $5,000 deductible. Any grant money used for repairs or capital expenses would not be subject to rent abatement. Freedom House has leased this property since 1992, however, all leases and renewal options have expired.

4. Project: Hopatcong State Park, Block 10710, Lot 4, Block 1106, Part of Lot 1, Stanhope Borough, Sussex County

Requesting Party: The NJ DEP, Division of Parks and Forestry, requests the amendment of a previously approved ten year lease with the Borough of Stanhope for the continued development, maintenance and operation of outdoor recreational facilities for the benefit of the public. At the December
16, 2013 meeting, the State House Commission approved a ten year lease. During the review of the lease agreement, the Department determined that leasing the property to the Borough of Stanhope for a 20 year term would not interfere with plans for development of the property for recreation and conservation purposes as part of Hopatcong State Park and asks the SHC to approve the request to amend the term to 20 years. The Borough has leased the premises since 1992 and there have been no problems.

Terms: Compensation is a one-time payment of $20 and the investment being made by the Borough in the maintenance, improvements, equipment replacement and insurance coverage on the property and recreational facilities.

5. Project: Stafford Business Park Open Space Areas, Stafford Township, Ocean County

Requesting Party: The NJ DEP, on behalf of the Township of Stafford, requests approval of the Township’s application to amend the November 2010 Green Acres diversion approval for the installation of a solar facility on the former Stafford landfill by the Walters Group to incorporate the following changes:

. Reduction of the diversion area within Block 39, Lot 25 from approximately 47 acres to approximately 34 acres (a 28% reduction in the footprint of the project).

. Acceptance of Block 54, Lots 21.01 and 26, totaling approximately 40 acres, as replacement land for the diverted area.

. Acceptance of the revised financial terms between the Township of Stafford and Walters Group for the underlying lease. However, as provided in the original approval, the rental payments from the Walters Group to the Township, including the $114,500 “additional rent” payment, are to be used by the Township for “its operating, maintenance or capital expenses related to its funded parkland or to its recreation program as a whole”.

Terms: In November 2010, the DEP and the SHC approved a request by Stafford Township to enter into a 30 year lease with Walters Development Group for installation of solar panels on top of a closed landfill that had been
restricted with a conservation easement. In January 2011, several environmental groups appealed the approval. In December 2013, the DEP and the SHC approved an order directing Stafford to amend its Green Acres diversion application to address several issues raised in the appeal (primarily related to compensation and mitigation). The Township now seeks approval for the amended application, which now includes replacement land. Please see the September 30, 2014 memo in the Members’ briefing materials for more details on the amended application and procedural history.

6. Project: Millville Wildlife Management Area
Downe Township: Block 24, Lots 1, 2, 3, Block 25, Lot 1, Block 26, Lots 1, 4, 10, Block 28, Lot 1
Commercial Township: Block 3, Lot 1
Millville City: Block 141, Lot 2

Requesting Party: The NJ DEP, Division of Fish and Wildlife, requests the amendment of a previously approved 20 year lease with Atlantic City Electric (ACE) for the use of a Right of Way (ROW) for the operation, maintenance, repair, renewal and removal of an existing 69kV transmission line for the distribution of electricity. At its June 16, 2014 meeting, the SHC approved a 20 year lease with ACE. The new lease will replace and supersede a 50 year lease with ACE that expired in 2009 for the same ROW.

Terms: During the Department’s reviews and drafting of the lease agreement, it was determined that the following require amendment of the previously approved 20 year lease:
- Block 26, Lot 4, Downe Township, Cumberland County should be included in the leased premises.
- Six parcels were acquired by the State of NJ after the 1959 lease agreement was executed. The owners of these parcels received a one-time payment and executed permanent ROW easements with ACE. These easements were assumed by the State of NJ at the time of their acquisitions. The DEP cannot collect rent on these parcels.
- The annual compensation is based on the 2,831,177 square feet (64.99 acres) of the ROW identified in the lease agreement.
- Corrected in the Property section of the SHC Fact Sheet was the total length of the ROW identified in the Summary. This was incorrectly identified in the original approval as 26,254.92 foot long.
- The property to be leased consists of a ROW that is 100’ wide and 32,098’ long, totaling approximately 73.69 acres.
- For leases with public entities for public works projects, the DEP uses the State's August 18, 2011 Interagency State Land Lease Valuation Report which recommends $0.15/square foot for private sector projects, with a 2.5% annual escalation clause. Based on this rate, the amended rent for the first year will be $424,677.00. With the 2.5% annual escalation, the total amended rent for the 20 year term will be $10,854,733.00.

**NEW BUSINESS:**

**DEPARTMENT OF TREASURY REQUESTS:**

7. RPR 14-18, Former Marlboro Psychiatric Hospital, Block 159, Part of Lot 11, Marlboro Township, Monmouth County

Requesting Party: The NJ Department of the Treasury requests approval to grant a utility easement to JCP&L on the grounds of the former Marlboro Psychiatric Hospital. As part of the demolition and site restoration, the power house, which supplies utilities to the water and waste water treatment plants will be demolished. In order to proceed with the demolition and site restoration project, utilities at the power house must be terminated and delivered to the site from an alternate location on State owned property along Conover Road.

Terms: Since this project directly benefits the State, the easement will be granted for $1.00.

8. RPR 15-02, 155 Willowbrook Boulevard, Block 210, Lot 15, Wayne Township, Passaic County

Requesting Party: The NJ Department of the Treasury, on behalf of the Division of Lottery, requests approval to sublease up to and not to exceed 5,790 square feet of office space.

Terms: The Division of Lottery pays $26.75 per square foot for 5,790 square feet of Class B office space. With the cost of tax and operating escalations, the effective rental is $27.48 per square foot. The lease expires on April 30, 2017. The State has two, five year renewal options at $30 and $32.50 respectively. In any event, the State will not be exercising any renewal options. The Lessor is willing to cooperate on a sublease and is currently asking $17.50 per square foot plus tenant electric for new tenants in the building. In any sublease, the State would continue to pay the Lessor the difference between the sublease
rental and the State’s effective rental of $27.48 per square foot for the remaining term expiring on April 30, 2017. The State may need to pay for the Lessor to complete a work letter for any new tenant which is approximately $15.00 per square foot or $86,850. The State will market the property through the Lessor and also directly offer the space to the public on one or more real estate sites made available to the public at large. Additionally, the State may need to pay the Lessor a sublease approval fee of 5% which amount will be calculated on the square footage of the space subleased and the sublease rent.

The sublease shall be on substantially all of the same terms as set forth in the State’s lease and shall contain the requirement that the sublessee be obligated to obtain and maintain customary liability, property and other standard insurance coverages for the benefit of the Lessor and the State. The sublessee shall also arrange for Chapter 51 approval to be obtained prior to the commencement of the sublease term.

The State shall obtain net cost savings under any sublease. For example, if the State had subleased the office space at $17.50 per square foot effective as of October 1, 2014, the State would have reduced its rental obligation by approximately $260,000 over the remaining term. Lump sum costs to the Lessor may total $99,850 ($86,850 work letter and $13,000 fee). The final savings to the State after all costs would be approximately $160,150.

All of the above is subject to consent from the current Lessor and execution of a sublease agreement in a form satisfactory to the State.

9. RPR 15-06, Trenton Office Complex, 225 East State Street, Suite 8, Block 202, Lot 6, Trenton City, Mercer County

Requesting Party: The NJ Department of the Treasury, requests approval to lease commercial space within the Trenton Office Complex to Blimpie, d.b.a. at 1195 B.A. Realty, Inc. (Kimberly A. Lane), to be used for retail services. Blimpie is the current tenant of this space, however the current lease is expiring at year end and a new lease must be approved.

Terms: The lease will be for a term of five years with two, five year renewal options. The annual rent for the first year will be $52,200, with annual increases of 2.5% based on the previous year’s rent.
DEPARTMENT OF TRANSPORTATION (DOT) REQUESTS:

10. Project: Route 4 (Currently Route 9), Section 1, Parcels VX4 & VX5, Block 1622, Adjoining Lot 1, City of Somers Point, Atlantic County

Requesting Party: The NJ DOT, Division of Right of Way, Property Management Unit, requests approval to dispose of 0.024 acre or 1,040 square feet of excess surplus vacant lot in the HC-1 Highway Commercial One zone. 720 New Road LLC is the contract purchaser for the property adjacent to parcels VX4 and VX5 and wishes to acquire the parcels for assemblage to the adjacent commercial property to allow for greater vehicle circulation and parking for the proposed commercial development on the adjacent property.

Terms: The property will be sold directly to the contract purchaser of the only adjacent property, 720 New Road LLC, (Larry Berman, Sole Member/Manager) after acquiring the adjacent property. The recommended sale price is $22,000, appraised value.

11. Project: Route 1, Section 8, Parcel VX81B, Block 337L, Adjacent to Lot 15A, Edison Township, Middlesex County

Requesting Party: The NJ DOT, Division of Right of Way, Property Management Unit, requests approval to dispose of an irregular shaped lot containing an area of approximately 0.078 acres (3,400 square feet) adjacent to the only adjoining property owner, Dana Ciobanu, for $5,000, appraised value.

Terms: The property is being acquired for assemblage to Ms. Ciobanu’s adjacent residential property to allow her to have additional yard space for her personal enjoyment.

12. Project: Route 4 (Current Route 9), Section 40, Part of Parcel 9A, Block 18.01, Adjacent to Lot 1.03, Manalapan Township, Monmouth County

Requesting Party: The NJ DOT, Division of Right of Way, Property Management Unit, is seeking approval to lease on a month to month basis to PMG, New Jersey, LLC an area of 25 square feet. The property is adjacent to property owned by PMG, New Jersey, LLC (Abdolhossein Etemi, President, PMG Petroleum Marketing Group) and will be used for that portion of the footing and base of an existing Shell Identification Sign.
Terms: The monthly lease amount is $10.83 per month, inclusive of the Municipal In Lieu of Taxes, for a yearly rental for $130, appraised value. The rental will increase according to the rent schedule of the lease.

13. Project: Route 130, Section 8, Parcels V116 & V106A, Block 1407, Adjacent to Lot 29.01, Block 1404, Lot 1, Cinnaminson Township, Burlington County

Requesting Party: The NJ DOT, Division of Right of Way, Property Management Unit, requests approval to exchange an irregular shaped lot containing approximately 1.151 acres (0.517 acres for Parcel V116 and 0.634 acres for Parcel V106A) of excess surplus land in Cinnaminson Township to the only adjacent property owner, New Plan Cinnaminson Urban Renewal LLC, for assemblage to its adjacent developed commercial property for its property known as Parcel 104C and 107 of the Route 130, Section 8 Project and containing approximately 3.472 acres (0.825 acres for Parcel 104C and 2.647 acres for Parcel 107) which has been used for Route 130 related roadway improvements.

Terms: Property Parcels V116 and V106A will be sold/exchanged to the only adjacent property, New Plan Cinnaminson Urban Renewal LLC for Parcels 104C and 107 and $1.00.

DEPARTMENT OF ENVIRONMENTAL PROTECTION (DEP) REQUESTS:

14. Project: Municipal Open Space, Block 2711, Part of Lot 104.01, Wayne Township, Passaic County

Requesting Party: The NJ DEP, on behalf of the Township of Wayne, requests approval to allow the Township to convey a subsurface water line easement to DJK Property, LLC, (Julie Ezra, Principal), through 0.011 acre of municipal open space for the purpose of providing portable water service to a new business located on Block 2711, Lot 102. The subsurface easement will be located beneath a retention basin and a paved roadway that will provide vehicular public access to the parkland once it is developed for active recreation.

Terms: As compensation, DJK Property, LLC shall pay $2,500 to the Township. The Township shall deposit these funds into its dedicated Open
Space Trust account for future acquisition of parkland. This amount was derived by applying the minimum amount of monetary compensation for a private subsurface easement per N.J.A.C. 7:36-26.10(g). No adverse public comments were received at either hearing held on February 19, 2014 or May 21, 2014.

15. Project: Newton Lake Park, Block 1.01, Part of Lot 1, Oaklyn Borough, Camden County

Requesting Party: The NJ DEP, on behalf of the Camden County Parks Department, requests approval to allow the diversion of a total of 0.013 +/- acre of parkland within Newton Lake Park, in connection with the northern phase of the Public Service Electric and Gas Company’s (PSE&G) Southern Reinforcement Program. The PSE&G project consists of the construction of two new 230kV underground circuits to connect the company’s Gloucester Switching Station, Cuthbert Substation and the Camden Switching Station. The diversion involves the installation of an underground 230kV electric circuit under a 0.013 acre portion of Newton Lake Park.

Terms: To compensate, the County shall pay $2,500 to be deposited into the Garden State Preservation Trust Fund for land acquisition and/or park development purposes. No public or written comments were received at either hearing held on January 8, 2014 or July 10, 2014.

16. Project: Weiner Homes Property, Block 394, Lot 9 and 136, Toms River Township, Ocean County

Requesting Party: The NJ DEP, on behalf of the County of Ocean, requests approval to allow a diversion of approximately 4.2 acres of parkland, known as the Weiner Homes Property, for the construction of a third access driveway to the Ocean County College campus. The County asserts that existing and projected traffic conditions warrant an additional access point for the students, faculty, staff, nearby residents and commuters that travel to, from and by the College daily. The current and projected college enrollment cannot be safely accommodated by just the two existing points of access; even at current enrollment figures, many intersections in the area surrounding the college campus are rated as being unsafe.

Terms: To compensate, the County shall encumber with Green Acres’ restrictions, an adjacent 99 acre property which currently has no restrictions. The ratio of replacement land acreage to parkland diverted is greater than 24 to
1 (based on size). Through this application and mitigation, requirements imposed by other DEP permitting programs, construction of the proposed driveway will result in the permanent preservation of a total of 400 acres of land near the College campus. Public opposition to the diversion was expressed at both the May 2, 2013 and April 17, 2014 hearings. Several regional environmental organizations expressed concern that the diversion and subsequent construction of the third access driveway would result in adverse impacts to endangered, threatened and rare species as well as fragmentation of the existing forested habitat for these species. Several commenters were concerned that the replacement parcel is not comparable in value, utility or accessibility to the land proposed for diversion. (Additional comments and responses thereto are contained in the SHC members’ briefing materials.)

17. Project: Liberty State Park, Block 24501, Part of Lot 2, (0.13 acres) Jersey City, Hudson County, Upper New York Bay: 0.16 acres

Requesting Party: The NJ DEP, Division of Parks and Forestry, requests approval to lease approximately 0.29 acres of land within Liberty State Park with the Jersey City Municipal Utilities Authority for the purpose of the installation, maintenance and repair of water and wastewater pipelines to Liberty Island. Liberty Island is owned by the federal government and the National Park Service oversees all aspects of its maintenance and operation. The Jersey City Municipal Utilities Authority provides water and wastewater services for Liberty Island.

Terms: The lease will be for 20 years. The rental was established by appraisal completed by Sterling Disanto & Associates dated February 4, 2014 and includes a 2.5% annual escalation clause. The rent for the first year is $5,460 (calculated on 12,632.40 square feet at $0.43 per square foot) and with the 2.5% escalation, the total rent over the 20 year term will be $139,473.96.

18. Project: State Park Service, Block 447, Part of Lots 4 and 7, Jefferson Township, Morris County

Requesting Party: The NJ DEP, State Park Service ("Department"), requests approval to execute a 20 year lease agreement with Kean University ("Kean" or "University"), on an approximately 41 acre parcel within a property known as the Mt. Paul site.
Terms: The Department purchased the entire Mt. Paul site of over 1,100 acres in 2009 for $12 million using Federal Forest Legacy funding for the forested land and Green Acres funding for the 40.734 acre leased premises (containing a dormitory building, house and minor outbuildings). Kean plans to expend over $14 million on upgrading the dormitory building to make it a LEED certified “green” building in which to hold biodiversity and environmental education programming and classes. The dormitory use will be limited to accommodate the water and septic conditions onsite in accordance with the Highlands Water Protection and Planning Act and Kean has held preliminary discussions with the Highlands Council over the concept for the project and has modified the concept to be in compliance with the Highlands Water Protection and Planning Act. The design is currently only in the concept stage. The University will not move forward with designing the project until the lease has been executed.

The leased premises are steeply sloped at approximately 30 degrees. The areas that are not forested are dotted by large boulders and rock outcroppings. The existing paved one lane access road winds between boulders and trees. The dormitory and small paved parking lot are situated on a flat area approximately one acre in size and the land slopes from this flat area approximately 40 degrees downward to the man-made lake. The leased premises shall remain heavily forested and tree removal will be limited to ensure the site retains most of its present character. The University will comply with the No Net Loss Reforestation Act by replacing any and all trees removed or damaged during construction. The University will be responsible for all maintenance and upkeep of the leased premises excluding capital repairs to the dam which will remain the responsibility of the Department.

The Department has not been able to find any other interested parties after an RFP process and soliciting proposals from various educational entities. At the end of the lease, the Department will own the LEED certified improvements and, during the term of the lease, the Department will not have to expend over $25,000 per year in heating and maintenance costs thereby avoiding spending over $500,000 during the lease term. In addition, the Department avoids the expense of demolishing the buildings at an estimated cost of $750,000.

The Department will lease the property for the nominal amount of $20 ($1.00/year for the 20 year lease). This nominal amount is due to the Department being unable to find entities interested in the property, the Department is avoiding maintenance and repair costs and Kean is putting over
$14 million into the property. The total estimated investment by Kean for this project is $14.65 million of which $11.60 million is a NJ Department of Education grant and $3.05 million is from Kean’s Capital Improvement Funds. This investment is comprised of the following:

- Design/Construction Administration: $850,000
- Construction: $11.55 million
- Laboratory Equipment: $1,250,000
- IT Infrastructure Upgrades/Connectivity: $250,000
- Furnishings: $750,000

Taking the $14.65 million investment and spreading it over the 20 years of the lease, Kean will have spent $732,500 per year plus the cost of maintaining and repairing the property.

Kean shall also be responsible for the maintenance and repair of the leased premises during the lease term which includes but is not limited to structural repairs and the cost of all utility services. Kean will be responsible for the dam inspections and surrounding grounds maintenance. Kean facilities are maintained in accordance with the appropriate maintenance schedule and these buildings will also be maintained per that schedule. In addition to a mechanical system Preventive Maintenance program, Kean has a staff of over 150 persons dedicated to the maintenance and repair of all University facilities. The University maintains a Deferred Maintenance Fund equal to a maximum of 5% of the University’s operating budget for maintenance, preservation and renewal of capital structures and facilities and these funds will be used to maintain the leased premises at Mt. Paul.

19. Project: Spicers Creek Boat Ramp, Block 753.01, Part of Lot 39.05, Lower Township, Cape May County

Requesting Party: The NJ DEP, Division of Fish and Wildlife ("Department") requests approval to enter into a 20 year ground lease with New Cingular Wireless PCS, LLC at the area known as Spicers Creek Boat Ramp to place an equipment shelter and diesel generator on the ground adjacent to an existing Atlantic City Electric, Inc. utility pole. Atlantic City Electric has a permanent deeded right of way that was assigned to the Department when the Property was acquired from the United States of America in 1960.

Terms: The ground lease will consist of a pad area 18’ x 34’ wide and two 10’ x 10’ areas for the guide wires. Annual rental of $700 per year with 2.5% annual increases. The annual rent is the minimum lease fee established by the NJ
Interagency Land Lease Valuation Project for linear corridor projects associated with telecommunications. Total rent for the 20 year term will be $17,881.00.

20. Project: Delaware & Raritan Canal State Park (Cavallo Park), Block 1043, Part of Lot 6, Lambertville City, Hunterdon County

Requesting Party: The NJ DEP, Division of Parks and Forestry ("DEP"), requests approval to transfer a 0.97 +/- acre portion of Block 1043, Lot 6 to the City of Lambertville for continued use as a municipal park (known as Cavallo Park).

Terms: The transfer would be in fee, at no cost, subject to (1) the imposition of a permanent conservation easement or restriction in a form acceptable to the NJ Economic Development Authority ("NJEDA") and (2) the inclusion of a reverter clause prohibiting the future sale or transfer of the property for non-parkland purposes. The imposition of a conservation easement or restriction is required as a condition of the City's future receipt of funds from the Hazardous Site Discharge Remediation Fund administered by the DEP and the NJEDA. A recent subsurface analysis indicates the presence of a small amount of contaminated soils that requires remediation in a portion of the park, most likely resulting from its former use. Available records indicate the site contained storage and maintenance buildings until the 1930s and that the park has existed since at least 1960. The City of Lambertville plans to excavate and replace the contaminated soils and to redevelop and improve the park; including the replacement of the existing fence, playground equipment and landscaping and the construction of a circulation path, bicycle racks, an entry court with a kiosk and a 16' by 28' open pavilion.

Given the public benefits from the City’s receipt of NJEDA clean up funds and implementation of the redevelopment plan for Cavallo Park, no additional compensation is proposed for the parkland transfer. However, in order to prevent the City from reaping a financing benefit from future sale or transfer of the park for non-parkland purposes, the deed will include a reverter clause requiring the City to transfer the park back to the DEP, at no cost, in the event it ceases operation of Cavallo Park in this location. The technical costs of the transfer (survey, deed recording fees, etc.) are to be borne by the City.

DIVISION OF PENSIONS AND BENEFITS' REQUESTS:
21. Judicial Retirement System -
   Requesting Party: The NJ Department of the Treasury, Division of Pensions & Benefits
   Terms: The SHC shall sit as the Board of Trustees for the Judicial Retirement System to approve the following:
   1. Approval of the Minutes of the Meeting Held on June 16, 2014
   2. Confirmation of Death Claims, Retirements & Survivor Benefits

EXECUTIVE SESSION (as necessary)

OTHER BUSINESS (as necessary)

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### APPENDIX:

Testimony submitted by Emile D. DeVito, Ph.D. | 1x
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AMY E. MELICK (Chair): Good morning, everyone. Thank you for attending the State House Commission. We’re about to get started.

MR. SHAUGHNESSY (Secretary): Good morning. This is the October 23, 2014, State House Commission meeting.

In compliance with the Open Public Meetings Act, notice of this meeting was given by way of notice filed with the Secretary of State, delivered to the State House Press Corps, and posted at the Office of the State House Commission.

I’ll call the roll at this point.

Special Counsel Melick.

MS. MELICK: Present.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Present.

MR. SHAUGHNESSY: Director Holzbaur.

MS. HOLZBAUR: Here.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Here.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Present.

MR. SHAUGHNESSY: And Assemblyman Rible.

ASSEMBLYMAN RIBLE: Here.

MR. SHAUGHNESSY: We have a quorum, Madam Chair.

MS. MELICK: Thank you.

MR. SHAUGHNESSY: The first matter -- we’re just going to handle perfunctory -- is the approval of the June 16, 2014, State House Commission meeting minutes.
Do I have a motion for that?

SENATOR CARDINALE: So moved.

MR. SHAUGHNESSY: Second?

MS. MELICK: Second.

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

Any abstentions? (no response)

Okay, that matter is approved.

With the permission of the Chair, we are moving matter No. 16, I believe, up. This matter is No. 16 on the agenda; it is under new business, and it’s a DEP request.

The project is Weiner Homes Property, Block 394, Lot 9 and 136, Toms River Township, Ocean County.

DEP, on behalf of the County of Ocean, requests approval to divert approximately 4.2 acres for the construction of a third access driveway to the Ocean County College campus.

To compensate, the County shall encumber, with Green Acres’ restrictions, an adjacent 99-acre property which currently has no restrictions. The ratio of the replacement land acreage to parkland diverted is greater than 24 to 1, based upon size. Through this application and mitigation, requirements imposed by other DEP permitting programs, construction of the proposed driveway will result in a permanent preservation of a total of 400 acres of land near the College campus.

Certain opposition to the diversion was expressed at both the May 2, 2013, and April 17, 2014, public hearings -- concern that the diversion and subsequent construction of the third access driveway would result in adverse impacts to endangered, threatened, and rare species, as
well as fragmentation of the existing forested habitat for these species. There was also concern that the replacement parcel is not comparable in value, utility, or accessibility to the land proposed for the diversion.

Finally, I would like to note that a letter was received from the Board of Chosen Freeholders of Ocean County, dated October 20, 2014, endorsing this action for the benefit of current and future students. The letter was delivered to the members and will be incorporated into the State House Commission records.

Do we have any members of the Commission who have any questions or comments with regard to this matter? (no response)

Any members of the public who need or want to be heard on this matter?

Yes, sir, please step up and identify yourself.

E M I L E   D.    D e V I T O,   Ph.D.: Sure.

MR. SHAUGHNESSY: Thank you, sir.

DR. DEVITO: Should I sit down?

MR. SHAUGHNESSY: Sure; be comfortable.

DR. DEVITO: Yes, my name is Emile Devito, Manager of Science, New Jersey Conservation Foundation. I’m also on the Board of Trustees of the Pinelands Preservation Alliance, and I’m also on the Endangered and Nongame Species Advisory Committee of the Department of Environmental Protection.

Just a few issues I want to bring up, that I would like to add to the record, regarding the Ocean County College driveway. One, is that there have been comments on the record that somehow Federal and State wetlands regulations trump Green Acres diversion rules; and that because,
in order to avoid a few extra portions of an acre of wetlands’ impact, that there’s no other alternative than to take parkland which contains some uplands.

And so we want to make it clear that we don’t believe that to be true. There’s nothing anywhere that says that diversion of parkland should be considered less important than alternatives regarding the various wetlands laws. And we believe there is an alternative -- going around the southern edge of the wetlands, in this particular case -- that has not been fully explored, which would not have to take any parkland. And it would also result in less impact to the special concern of rare species and the threatened species that live in this habitat, because that alternative would not fragment the center of this gigantic, many-hundred-acre swamp. So we believe that alternative has not been fully explored under the Wetlands regs.

Second, the latest materials that you have been given talks about how, in order to minimize impact on the bog turtle, there will be tunnels and fences and various things placed across this access -- in the construction of this access road, on into the future. So that sort of admits that there is an impact to bog turtles -- which are one of the rare species on the site -- because they want to do something about that. Now, it’s true that placing tunnels and fences could minimize -- or, not minimize -- could lessen the impact to bog turtles if those fences and tunnels actually worked, in perpetuity -- which that is very unlikely, because there is no way that they’re going to be maintained in perpetuity. Nothing is ever maintained in perpetuity, especially tunnels and fences which trees fall on, and they fill up with sediment and debris. So that’s not going to happen.
Tunnels and fences are good when you’re trying to lessen the impact of an already-existing road -- not when you’re trying to lessen the impact of new construction and to, sort of, claim that therefore the new construction won’t have a negative impact on a rare species. So it’s really being used in the wrong situation.

Now, since they’re admitting that fragmentation is going to impact the bog turtle, and the consultants’ reports for Ocean County also admit that fragmentation is going to impact the rare birds that are on the site -- a multiple number of species of rare birds, including many species of special concern songbirds and the threatened species, the barred owl.

You can’t build tunnels and fences for birds, and the consultants’ report admits that this 60-foot wide road construction -- the clearing limits vary: a little bit less, and a little bit more than 60 feet -- it’s going to fragment the forest, it’s going to open the canopy and basically cut this habitat in half, rendering it as two smaller pieces. And there’s no way to mitigate the impact on those birds for that, because you can’t mitigate the impact of taking away this long stretch of forest. And that will cause those bird populations, eventually, to decline seriously -- if not disappear entirely -- from the site.

There’s no baseline data on the density of those birds; we know they’re present, because we found them there. But the State has not conducted any kind of inventory to figure out how many are in those populations. There is no way to determine what the future impacts are going to be on those populations as they decline. And the replacement land is not the same type of habitat -- it’s linear, more linear; it’s more fragmented; and it probably doesn’t even contain those birds, and there’s
no baseline data to show that it does contain those birds. So we have serious concerns with that.

Furthermore, the New Jersey Department of Environmental Protection’s Endangered Species Advisory Committee has never been consulted about whether we’re-- The Advisory Committee is advisory to the Commissioner of the DEP, yet we have never been consulted as to our opinion as to whether or not this type of trade would actually be on equal footing for the species of concern on this site. So it’s really unusual that we take at face value all the reports created by the county, by their consultants; but we don’t even consult with our own Endangered Species Advisory Committee as to whether or not our Committee of scientists and people from business and industry and all walks of life -- it’s a very fair and balanced Committee -- we haven’t been consulted as to whether or not this kind of a diversion would result in an impact to that suite of rare species at the site -- which we find really upsetting.

Thank you very much.

MR. SHAUGHNESSY: Thank you, Mr. DeVito.

Anyone else from the--

Yes, sir. Please step up.

JEFF TITTEL: Jeff Tittel, Director of New Jersey Sierra Club.

I won’t repeat anything that Emile said, but I think what you have to understand -- that this is not just a diversion; this is basically putting a road right through the middle of protected Open Space and endangered species habitat.
And so the impact is not going to be 4 acres; the impact is going to be 100, because you’re basically cutting that property in half, lessening its value ecologically.

You have to understand: When you put a road through the middle of a forest, 300 feet on each side is automatically degraded because it allows for invasive species, and changes of soil, and everything else. In this case, we’re also severing a parcel that’s whole into two separate parcels -- which will have a greater impact.

You know, this whole issue about tunnels -- you know, will the turtles need EZ-Pass? I mean, the problem with these tunnels is that they also -- besides that they eventually fill in and don’t work -- what happens is that the species that take them -- their predators sit on the other side of the tunnel waiting for them to come through and just take them. So they don’t work; we’ve seen that happen with pine snakes; we’ve seen it happen time and time again.

We also believe that the replacement lands are not of greater or equal value because they do not have the same type of habitat, they do not have the same species. And we believe that we can design the road alternatively, through the southern part of the area, and not have these impacts at all, and they can still have their driveway without actually destroying this piece of property by cutting it in half.

Thank you.

MR. SHAUGHNESSY: Thank you, Mr. Tittel.

Any other members of the public like to provide any public comment?

Hearing none-- Oh, yes.
Good morning. Please identify yourselves.

MICHAEL J. GROSS, Esq.: Sure. My name is Michael J. Gross, Giordano Halleran and Ciesla. I’m a Special Counsel for the Ocean County Board of Chosen Freeholders, with respect to this application.

AMY S. GREENE: I’m Amy Greene, President of Amy Greene Environmental Consultants. We’ve been doing the ecological analysis of the potential effects on rare, threatened, and endangered species for this project.

MR. GROSS: Let me start by just commenting that this application has been pending for some period of time. And one of the reasons is we had to coordinate with the Division of Land Use Regulation at DEP with respect to the objections that were raised regarding endangered and threatened species which you heard today. After consultation with them, and after some modifications to our plans, the endangered and non-endangered species expert at the Division of Land Use Regulation basically concurred with our conclusions with respect to the mitigation that was afforded, the impacts, the lack of significant impacts to the endangered and threatened species, and the sufficiency of the mitigation measures we’re taking for the bog turtle. So the experts in this area, the Department of Environmental Protection, are satisfied. I think you have the Commissioner’s recommendation, and the Commissioner does indicate that he is satisfied with the lack of a significant impact and the mitigation measures we are taking.

When Mr. DeVito talked about Wetlands laws trumping Open Space -- that’s not exactly true. Our first alternative did not involve any diversion. We went to the Division of Land Use Regulation because it did
involve impacts on freshwater wetlands, and they very clearly advised us that they would not approve the alignment because of the impacts on freshwater wetlands. So from a permitting perspective, we really had no alternative but to change that alignment. We are impacting approximately 4 acres but, as indicated, the total mitigation is far in excess of what is required under the Green Acres statutes and regulations.

I just want to make one other comment, and then I will turn it over to Amy. I was very surprised a) that Mr. Tittel testified, because throughout this public process, there were two public hearings. Sierra Club did not really weigh in on this application. So we’re a little bit surprised at that.

Number two, Mr. DeVito indicated that there would be an adverse impact on barred owl. If you read the transcripts of the hearings, Mr. DeVito conceded at one of the hearings that, indeed, there would not be an adverse impact on barred owl, which is a threatened species. And, of course, DEP agreed that there would not be an adverse impact on barred owl.

So I’d like to turn it over to Amy Greene, who can address some of the other points made by Mr. DeVito and Mr. Tittel.

MS. GREENE: Okay. Maybe I will just take a minute to orient you so you have a picture of what’s proposed and what’s proposed for compensation.

(off mike) My expert map holder is here.

The area in red is the area of the proposed driveway. In the center here, this is existing Green Acres encumbered parcel. So the red is the area of disturbance.
This large parcel here -- the part that isn’t required for the road -- this is the compensation area -- nearly 100 acres; 99 acres versus 4 acres. So your compensation talks about 2-to-1 for compensation; this is over 24-to-1 for compensation.

There are no documented endangered species on the site. There are records for the barred owl, which is a threatened species.

Studies relied on by your own Department of Environmental Protection’s Endangered and Nongame Species Program, and the study recently commissioned by the Department, have determined that small driveways like this do not fragment habitat for the barred owl -- which depends on forest habitat. So the road itself will not cause fragmentation of habitat for any threatened species.

Then as we go down, your regulations also advise there shouldn’t be significant adverse impacts on rare species. So rare species are defined as species that are of special concern. They’re not endangered or threatened, but we’re watching them, is what it is.

So there have been several species of forest interior nesting birds that are on the list of species of special concern observed in this area. So again, four 4 acres of impacts on parkland; we’re providing -- to that habitat -- we’re providing 99 acres of habitat for forest interior nesting birds; over 24-to-1 compensation.

And you can see it is similar habitat. It’s contiguous, it’s forested, it’s not linear habitat. It’s this entire piece here. Furthermore, there’s an analysis that Mr. Tittel referred to, sort of an indirect impact of a linear project going through an area -- what effect it would have on habitat. So if you go that 90 meters -- or 300 feet -- off of where the road would be,
you would say that there would be an additional impact on core forest habitat. The forest interior nesting birds do better the further into the forest they are. So we’ve taken into account the impact on core forest, and we’ve analyzed the availability of core forest habitat that we’re protecting as compensation. And the ratio of that is about 2.5-to-1. So even a very conservative analysis of the indirect impacts -- actually, it’s-- It would be 24 acres, is the core habitat; were preserving 65 acres, so it’s 2.66-to-1.

Then the box turtle -- not bog turtle -- but box turtle is another species of special concern; it has been documented in this area. And we consulted with John Heilferty of the New Jersey Department of Environmental Protection, Land Use Regulation Program -- that’s his area of expertise -- the turtles, and frogs, and reptiles, and amphibians. And he was satisfied that it’s a relatively small road, narrow road. There are other factors; it doesn’t have a curb where the turtles could get trapped on it. He advised that road speed humps should be put to reduce the speed of the vehicles. There are three large culverts being constructed, one of which is going on the Natural Lands Trust property, and he felt that that also would ameliorate any impacts to the box turtle. And he was satisfied that the project wouldn’t have significant adverse impacts on that rare species.

MR. GROSS: I do have here with me the President of Ocean County College, Dr. Jon Larson; and Freeholder Director John Bartlett of Ocean County. I don’t know if the Kean University President has arrived yet, so if he’s in back of me, I’m sure he’ll identify himself. I don’t know if they wanted to say a few words or not.

FREEHOLDER JOHN C. BARTLETT Jr.: Thank you; thank you for the opportunity to address you.
My name is John Bartlett; I’m a Freeholder in Ocean County and have been for a long time. I was the instigator, if you will, of our County’s Natural Land’s Trust Program when it began in 1998, and this is the first time -- the first time that we have ever asked for a diversion of land that we bought under our Natural Lands Trust program.

To date, Ocean County has preserved in this program -- which the public voted for -- about 16,000 acres purchased outright, now in County ownership. I think it’s important to note a couple of things here. The reason we want to build this driveway is that we want to offer educational opportunity to students in Ocean County which they do not have. A public university -- Kean University, and Dr Farahi is here -- has invested considerable money in building what we call the Gateway Building at the College. And this access road is essential, again, to the educational opportunity of students to obtain a bachelor’s degree for a total cost, at this point, for four total years, of $26,000. The Freeholders have not been negligent in looking at Ocean County College. One of the things we wanted to do was to purchase all of the land surrounding the College so that there would be no impact -- either by the College on residents, or by residents on the College. This tract that we’re talking about was the Weiner Homes tract; it was the first one we purchased. And the reason we purchased it, with Dover Township, was to prevent the building of 629 townhouses. We bought it as a buffer area, purely and simply.

And I’ve put together a map of the entire area, all the way out to Barnegat Bay. And in red -- on this map -- is Ocean County College. Everything else you see in either crosshatch, or dark green, or in these green colors has been purchased by the County, or Dover Township, or in
conjunction with Dover Township and the County, in some of them, especially this Weiner Homes tract that we’re talking about today.

So we have done what, I believe, is the appropriate thing to do to protect our environment, to protect our College, to protect our County. This (indicating) again, is an arm of Barnegat Bay, this is direct County parkland, these are natural lands -- by the way, which are not parks, okay? We were very careful when we drew our public question -- it was drawn in my office -- that we would not co-join our natural lands and our park system, just in case the public wouldn’t vote for the natural lands; and I didn’t want to be stuck having to reduce what we were going to spend on parks. That was my mistake; that didn’t happen. The vote passed in every municipality.

So again, what we’re asking for is a small diversion; this is the first time. The reason we bought the property in the first place was for buffering of the College, and that, of course, is what it has accomplished.

Without this road we cannot effectively build the kinds of institutions we want to have, and the educational opportunities that do not exist and, in our lifetimes, will not exist otherwise unless we have this grand association with Kean University.

I want to thank Dr. Farahi, the President of Kean, who came forward to Ocean County with the proposal; and, obviously, Dr. Larson, the President of Ocean County College, who endorsed it.

And the County’s role in this has been to buy the property, to do the infrastructure work, to do-- We have done, in the letter I sent you, all of the -- redone all of the drainage basins; we have built state of the art basins that the Commissioner of DEP came down personally to dedicate.
We’ve done everything we can, environmentally, to protect this site, but there is a grand public interest here in providing, as I said before, opportunities for people. And that’s why we’re asking, humbly, for this diversion so that we can move forward -- not only to protect land that we’ve protected, but to offer educational opportunities.

Thank you for your kind attention and, hopefully, your positive look on this endeavor.

Thank you.

MR. SHAUGHNESSY: Thank you, Freeholder Bartlett, and thank you for your letter.

Is there anyone else who wants to be heard on this matter?

Okay; the other gentleman, please step up -- yes.

MR. TITTEL: (off mike) I don’t really need to comment; I just want to correct the record.

MR. SHAUGHNESSY: Yes, Mr. Tittel.

MR. TITTEL: Robert Moss -- and he’s in the minutes -- who is the Green Acres Coordinator for the Sierra Club -- he represented the Club at the hearings and at the meetings and raised questions, so I just want to make sure that -- we’ve been involved with this all along, and so I think accuracy is important. If that’s not accurate, what else isn’t?

DR. DeVITO: Yes, Emile DeVito. I just want to correct the record also.

I read the transcripts, and I never said that there would be no impact on the barred owl; I never even came close to saying that. There’s an argument, presented by additions to the minutes, written by probably someone from Ocean County -- or I don’t who -- that is analyzing my
statement and claims that I, by some concept of -- false by omission or something like that -- that I implied that there was no impact to the barred owl. So this has nothing to do with me, it has nothing to do with anything I said. It’s purely some legal argument of manipulating my words.

The barred owl habitat is going to be impacted seriously. Other species are going to move in that are detrimental to the barred owl. Their prey base is going to be reduced; their population is going to disappear. That has happened time and time again in every fragmented swamp throughout the history of development in New Jersey. You can see by that exhibit that the road is going to bisect the swamp, and the barred owl is going to disappear because it’s being turned into two smaller fragments. And that is irrefutable.

Thank you.

MR. GROSS: I just want to comment that I read the transcript, and the transcript will speak for itself.

MR. SHAUGHNESSY: Thank you.

Any members have any questions or comments before we take--

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Looking at the background material on this item, there’s a discussion of alternatives. And alternative 2 and alternative 4 -- I’d like to have a little more discussion about them. Alternative 2 is expansion of the existing driveways, and it says that that was reviewed by the County, and that it would not significantly improve the levels of service.

Mr. Gross, do you have an engineer, your traffic engineer?
MR. GROSS: Yes, Mr. Scarantino is the engineer for Ocean County and he has an exhibit that shows all of the alternatives.

SENATOR SMITH: Yes. And by the way, I couldn’t tell where the roads were. I’m a little bit familiar with the area, but maybe you could show us where the roads are that service the County College.

FRANK S. SCARANTINO: (off mike) This is an overview of the entire campus and surrounding area. (Indicating) This is Hopper Boulevard to the east; this is North Bay Boulevard over here, to the west; and we are -- the problem is that both existing access points -- one on Church Road and one on Hooper -- rely on traffic that can’t get to those access points.

MR. SHAUGHNESSY: Sir, would you (gestures) -- so that all the members can see. Thank you.

MR. SCARANTINO: I’m sorry.

So that no matter how wide you try and make those roads, the traffic just can’t get there. The congestion points are those intersections on Hooper; Hooper Avenue is constrained. We have evaluated dozens of alternatives; there is nothing left to improve Hooper. Sections of it are limited to two lanes and operated at Level Service F today.

SENATOR SMITH: So is it the intersection of the roadway that’s the issue? I actually am familiar with Hooper there; there’s a reverse jug handle there, as I recollect, right?

MR. SCARANTINO: Yes.

SENATOR SMITH: And then the road ends wide; if you added an extra lane on the jug handle and the road in, wouldn’t that--

MR. SCARANTINO: We are--
SENATOR SMITH: You’re already doing that?

MR. SCARANTINO: That’s under construction, as we speak. That was identified as one of the short-term improvements to increase capacity at Hooper, and to the College. They are not enough; they will fail in seven to eight years. Strictly speaking, you can’t bring more college students into the College via Hooper and Church at this point. There’s no capacity for growth there. What we’re doing is a stop-gap measure; those jug handles are being dualized and made two-way jug handles. That is actually under construction today.

SENATOR SMITH: Where’s the Church Road entrance?

MR. SCARANTINO: The Church Road entrance is here (gestures).

SENATOR SMITH: Okay. Now, is that just signalized and it’s left turn or right turn?

MR. SCARANTINO: It has its own jug handle for the left turn, yes. But you can’t get there. The problem is not Church Road; the problem is the intersection of Church Road and Hooper. And the other problem is the intersection of Church Road and North Bay, which we are improving. But, again, that’s another stop-gap measure.

SENATOR SMITH: Okay. Again, so I can visualize this, Kean University complex -- what is going to be the size of that?

MR. SCARANTINO: I think it was estimated at-- What’s that -- the build-out of the new campus, square footage?

JON H. LARSON, Ph.D.: That’s 70,000--

Mr. GROSS: This is Dr. Larson.
DR. LARSON: (Indiscernible); it’s a new building that has been (indiscernible) --

MR. GROSS: Just let me add in, this is Dr. Larson, the President of Ocean County College.

DR. LARSON: --we jointly occupy, and there are nine additional sites on our new upper campus that we anticipate we will build out over the next 20 to 30 years.

I’d just like to add an anecdote. When I came to the College some 14-and-a-half years ago, the student newspaper ran a series of article about why the College didn’t have a third entrance -- because there was so much congestion they couldn’t get in. Well, in the ensuing 14-and-a-half years, our enrollment has doubled, and Kean University has come to the campus and has added an additional 1,800 students, and we expect that that number is going to continue to grow substantially in the future.

So right now we have gridlock. Students can’t get-- Sometimes it takes 30 minutes to get off the campus, or 30 minutes parked in traffic, the way we were on 195 coming over here today. And it’s just absolutely untenable and unsafe.

SENATOR SMITH: The arrangement with Kean is that they’re going to be the second two years -- there will be a transfer arrangement?

DR. LARSON: Yes. We do the first two, Kean does the other two. Dr. Farahi is here, I think, to comment about it. But we are thrilled with that partnership; it’s going to grow, and we think that we’re going to have many, many more programs. We have 15 undergraduate programs
and 5 graduate programs now, which is marvelous for our students in Ocean County.

SENATOR SMITH: Sure. Accepting the concept that the two existing roadways are at terrible levels of service, there’s no expansion potential -- is there any other possible route that was considered?

MR. SCARANTINO: Absolutely.

SENATOR SMITH: What did you consider, and why didn’t it work, or why didn’t you--

MR. SCARANTINO: This shows the primary number of alternatives out of about nine that were actually studied. The southern route that Dr. DeVito referenced, shown here, was our initial preferred alternative. And we discussed that with DEP Land Use at great length, and they said that there appears to be a number of other opportunities of significantly lesser impact.

SENATOR SMITH: What were the impacts associated with the southern route?

MR. SCARANTINO: Three-and-a-half acres of wetlands disturbance, and a little over an acre of riparian disturbance.

We come up to the yellow highlighted alignment, which is the alignment that we’re here, today, discussing -- because that’s been approved by DEP Land Use. As you can see, all of these shaded areas represent wetlands and riparian zones, and the white areas are upland. And so once we had done comprehensive studies of the entire campus and County land holdings, it became obvious that going up through the Natural Lands Trust property had the least impact: a little bit over an acre of wetlands impact, versus three-and-half acres of wetlands impact.
We dialogued with DEP Land Use with regards to this being a Natural Lands Trust property -- if it would be a required diversion. That’s why we had gone down here first with our alternates and looked at the southern half. They felt that the Federal protected wetlands was, in their world, a higher criteria. And, therefore, that was the alternative of least impact and that was what they would propose we build.

In fact, the cost of engineering and building that road is practically double of the southern alignment. We had estimated about $3 million to build the southern alignment; we’re allowed $7.5 million for the current proposal before you -- just to build that nine-tenths of a mile of roadway.

SENATOR SMITH: And what is the road intersection on the western side?

MR. SCARANTINO: They both intersect with North Bay Avenue.

SENATOR SMITH: North Bay Avenue, okay.

MR. SCARANTINO: And it affords an opportunity to draw all of the traffic originating in the western part of the County. It will be easily drawn towards that entrance, diverting them from the Hooper Avenue/College Drive and the Hooper Avenue/Church intersections. That generates a significant decrease in volume on those intersections; makes them sustainable for 25 years, according to our analysis, rather than failing in 7 years -- even with the improvements that we’ve built. That number -- that 7 to 8 years accounts for all of the improvements that are currently under construction.
SENATOR SMITH: Was there any consideration of the connection -- another connection to -- I guess it’s Church in the northern end?

MR. SCARANTINO: It would still cross the Natural Lands Trust property.

SENATOR SMITH: Okay.

MR. SCARANTINO: It would not avoid that. And it’s because most of those Natural Lands are actually uplands that they have the least impact, in terms of wetlands and riparian.

SENATOR SMITH: Okay.

MR. GROSS: And I believe the access to North Bay is closer to the Parkway, physically, correct?

MR. SCARANTINO: That is correct.

SENATOR SMITH: Okay.

Chairman, with your permission, let me just ask Mr. DeVito: Is the southern route any better than this?

DR. DeVITO: (off mike) We would not object to the southern route.


We would not object to the southern route; I believe the Sierra Club would not either.

MR. TITTEL: (off mike) That’s right.

DR. DeVITO: We believe that it doesn’t sound like it’s Ocean County’s fault; sounds like they were misdirected by Land Use. There’s no
rule that says that they have to have one acre, two acres less of wetlands impact. That can all be mitigated; it’s an individual permit. If they’re going to get an individual permit, the number of acres of wetland impact -- one, versus two, versus three -- they’ve given those permits before. And so there’s no reason that they should have shoved Ocean County onto the Natural Lands Trust property. There’s no legal reason, other than that -- I believe Mr. Scarantino just said -- they felt that it might be better. And that felt is not a legal reason. We would not object to the southern route; we would applaud it.

SENATOR SMITH: Okay. Is the problem with the -- for lack of a better term -- the central route, that there’s more threatened and endangered impact?

DR. DeVITO: No, they’re all throughout that swamp forest. But the southern route goes around the edge of the swamp forest and does not cause the fragmentation’s impact that no one has evaluated. No one has -- no regulation takes into account what happens when you bisect a swamp. DEP didn’t take it into account, and no one has taken that into account. But you have a chance to do so.

SENATOR SMITH: Is anybody here from the Land Use section of DEP? (no response) Have they provided-- Judeth, have they provided any rationale why the center route is better than the southern route? And is Mr. DeVito right -- that three-acre diversions are also granted?

DR. DeVITO: (off mike) I’m talking about three acre, individual permits, versus one-and-a-half acre. Individual permits can be any number of wetlands disturbance. You just have to deal with the--
MR. SHAUGHNESSY: Sir, I don’t think you can be heard from back there.

JUDETH YEANY PICCININI, Esq.: I’m Judeth Yeany from the Green Acres Program at the Department of Environmental Protection.

The timing of this project was that the County went to the Land Use Regulation program first to obtain the Wetlands permit -- which was granted just about the time that they applied for the diversion. So those alternatives and the various routes were evaluated by Land Use, and the alternative that they felt they could permit was permitted right around the time that the County applied for the diversion.

And, you know, we’ve heard the same thing that was recounted here on the record: that Land Use advised the County that they didn’t feel the southern alternative would be permitable. So that, then, enters into our analysis of the feasibility of the various alternatives.

SENATOR SMITH: Yes, why would it not be permitable?

MS. PICCININI YEANY: Because it is, to some extent, pitting the programs against each other: Land Use is analyzing alternatives with respect to Wetlands impacts. So from their perspective, there was a feasible alternative that would have fewer impacts on wetlands. They permitted it, and they expressed the opinion that they couldn’t permit the other alternative. So then we had to take the project as we found it, at that point, and analyze whether it qualified for a diversion.

But I do think that part of why you’re seeing a very high compensation ratio here is because of that scenario -- that perhaps there were alternatives that maybe weren’t feasible but would have avoided
parklands. So we felt a higher compensation ratio was appropriate because of that.

MR. GROSS: The problem is that under the Freshwater Wetlands Protection Act, and the regulations, in order to obtain an individual permit you have to demonstrate that there are no other less impactful alternatives. And here, according to the statute and regulations, there is a less impactful alternative -- and that’s the route that was chosen.

MR. SCARANTINO: So there is a statutory requirement that would basically preclude DEP from issuing a permit for that southern route. If that was the only alternative, yes, they probably -- Mr. DeVito is correct -- they probably would issue a permit. But they can’t do that under the statute and under the regulations.

MS. PICCININI YEANY: Well, and if I could add to that, then, as I said, we take the project with the wetlands permit in place, and we did require analysis of non-parkland alternatives. A road doesn’t necessarily have to be on parkland, so we do have the applicants analyze that. But if we have an applicant telling us they can’t get the permit for the alternatives, then we’re forced to evaluate the ones that do qualify for a permit.

SENATOR SMITH: Okay. Yes, sir?

MR. SCARANTINO: I’d like to offer up that, in the intervening numerous years that we’ve been at this process, that the southerly route -- which did come through the compensation parcel that’s being offered -- that route is no longer available, because Toms River Township built a Little League complex on the parcel that they control to get to North Bay Boulevard.
MR. GROSS: Yes. So even if--

MR. SCARANTINO: It’s no longer available.

MR. GROSS: Yes. Even if you were to say to us, “Okay, go back to the southern alternative,” basically, it’s not available any longer.

MS. PICCININI YEANY: Or, if it were, the road would be going through that park. So you’d be creating another diversion, and another applicant.

You know, we did have discussions with Land Use when the application was first filed. We did go to them and try to hash this out because, as I said, we felt like our objectives were potentially in conflict here. But because of the larger impact, and swamp pink, and other issues, I think we were convinced that they had no choice in their analysis.

SENATOR SMITH: Okay. Thank you.

MR. SHAUGHNESSY: Anything else from the members? (no response)

Okay, I appreciate everyone’s comment and testimony.

Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Can we, in the future, get someone from Land Use to be here to these meetings? Because it’s awfully frustrating to be here at the end game here, and to find out that the initial preferred route -- which would have cost half the price that we’re talking about now, and which would have led to no debate here amongst environmentalists -- was pushed off and we went to a more costly route which causes dissention. And now there’s no turning back. I’d like to know how we got there, and have someone who can answer questions on this, in the future, if that can be the case.
MS. PICCININI YEANY: Understood. You know, we didn’t anticipate necessarily that the Land Use permit itself would be the topic of discussion. But we’ll make sure that doesn’t happen again.

ASSEMBLYMAN MORIARTY: Thank you.

MR. SHAUGHNESSY: Okay. No other questions from the members? (no response)

Okay, I’m going to call the roll, please.

MR. KOTLER: We need a motion.

MR. SHAUGHNESSY: Oh, I need a--

ASSEMBLYMAN RIBLE: I’ll make a motion.

MR. SHAUGHNESSY: Okay, motion. Thank you, Assemblyman.

SENATOR CARDINALE: Second.

MR. SHAUGHNESSY: Motion, and second.

Special Counsel Melick.

MS. MELICK: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: A couple of comments.

I have to agree with my Assembly colleague that it’s kind of a shame that the southern route is not a viable alternative. I think the
comments about the impact on the land are genuine. And, by the way, I don’t think there’s anybody here who is not trying to do the best they can to do the right thing by the environment and the people of Ocean County. But it would have been nice if we had Land Use here to justify this a little bit more than it has been. But it does sound like the alternatives were considered. And it’s a great thing for the people of Ocean County -- to see the new college programs there.

I would love to be able to vote no (laughter); but it seems to me that we -- the State did its due diligence and tried its very best to minimize impacts. So I’m going to do a reluctant yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: I agree with all the comments of my esteemed Senate colleague. It is very frustrating; but I, too, am excited about the educational possibilities and I look forward to more students getting educated down there. It’s a very exciting partnership. And I, too, vote a reluctant yes.

MR. SHAUGHNESSY: Thank you for your comments.

Assemblyman Rible.

ASSEMBLYMAN RIBLE: A positive yes.

MR. SHAUGHNESSY: Thank you; the matter is approved.

Next, to take, under old business, No. 2.

Before that, I just want to note -- it should be noted that the Commission received an e-mail from Jean Public, dated October 21, 2014. This has made several comments with regard to matters before the Commission today. It will be incorporated into the Commission records.

No. 2 under old business: Patriots Corner Tribute.
The Patriots Corner Tribute Law establishes -- or seeks to establish a permanent tribute to New Jersey residents serving in the United States Armed Forces, their reserve components, and the New Jersey National Guard. The law provides that the Commission -- the State House Commission will establish a prominent location for the tribute within the State House, the type and design of the tribute, and what specific information is to be displayed.

The State Capitol Joint Management Commission, by statute -- among other things -- maintains custody of the State Capitol Complex, with exclusive jurisdiction with respect to its management and operation.

Correspondingly, the Joint Management Commission, at its May 27, 2014, meeting, approved locating the Patriots Corner permanent tribute in the main corridor of the legislative wing, directly across from the water fountains.

Perhaps more important, at its June 29, 2014, meeting, the Joint Management Commission approved funding the expenditure in the amount not to exceed $10,000 for the creation of the tribute. A mock-up of the tribute is included in the State House Commission members’ briefing binders, which was produced by the military folks during this process.

Today’s action seeks approval of the type and design of the tribute, and the location of the tribute in the main corridor of the legislative wing on the first floor of the State House.

Do we have any members of the public who wish to be heard on this matter? (no response)

Any members of the Commission want to be heard on this matter? (no response)
SENATOR SMITH: Move the matter.

MR. SHAUGHNESSY: Senator Smith, thank you.

Second?

ASSEMBLYMAN RIBLE: Second.

MR. SHAUGHNESSY: Assemblyman Rible, thank you.

I'll call the roll.

Special Counsel Melick.

MS. MELICK: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORTARIY: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: The matter is approved.

On to No. 3; thank you.

No. 3, under Old Business: Hagedorn Hospital, Block 21, part of Lot 24, Glen Gardner, Hunterdon County.

Treasury requests approval to lease a former employee housing building located on the grounds of the Hagedorn Hospital to Freedom
House, Inc. The proposed lease would be for a term of 10 years at an annual rent of $50,000, with 2 percent annual increases based on the prior year’s rent. Freedom House has leased this property since 1992; however, all leases and renewal options have expired.

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

Any members of the Commission want to be heard?

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Yes, sir.

SENATOR CARDINALE: I have two questions. We have a number of leases; the others have a 2.5 percent annual increase, this one has 2 percent. What is the justification for the difference?

MR. SHAUGHNESSY: I believe that this was what was negotiated between the lessee and the lessor in this matter.

SENATOR CARDINALE: Well, we should have a standardized policy, should we not?

MR. SHAUGHNESSY: Well, I think--

SENATOR CARDINALE: If we’re going to have some leases have a 2 percent and others have a 2.5 percent, I’d like to know what the differentiation is that causes us to grant one and not the other.

MR. SHAUGHNESSY: It’s a fair question, Senator.

MS. MELICK: Is Treasury here?

MR. SHAUGHNESSY: There is-- Is there someone from Treasury here that could discuss this?

Please identify yourself for the record.

ROBERT TIGHUE: Sure. I’m Robert Tighue, DPMC, Treasury.
Lease negotiations vary with each tenant. And this is a nonprofit that has been there since 1992 and has not paid us rent in the form of monetary rent. They’ve paid us with beds that they provided to DHS. DHS moved out of Hagedorn a few years ago; there was no need for the beds, so we were able to negotiate based on $50,000 a year. And the 2 percent was something that we felt was fair. It’s based on what the value of-- They have a-- We felt that they had a benefit to the State, and that 2 percent was appropriate in this case.

SENATOR CARDINALE: Well--

MR. TIGHUE: It’s not a typical situation where it’s a house or a normal commercial--

SENATOR CARDINALE: I understand the difference.

MR. TIGHUE: Okay.

SENATOR CARDINALE: But I would think that there should be a consistency on an item like this -- where you’re dealing with increase in rents on an annual basis. I understand that costs change, year by year; but they change for all properties. So that if you are, as the State, differentiating between the people who you’re dealing with on an item of this type -- I’m sure that there are many other kinds of things that go into these negotiations -- but it would seem to me that you should have a standardized approach.

Sometimes -- and I might suggest it to you -- costs of living increases, which are based on some statistic issued by the Federal government, are probably better than some sort of arbitrary number -- whether that number would be 2, 2.5, or some other number. And in private leasing that I do, we generally base our annual increases on some
governmental statistic, if it's a long-term lease. I’m sure if it struck me, it will strike other people that there is an inconsistency in how this is being done.

My second question was going to be: Why limit the cost of repairs to 5 percent?

MR. TIGHUE: I think it’s $5,000.

SENATOR CARDINALE: To $5,000.

MR. TIGHUE: The cost of repairs were, again, based off of what we felt, in the past, since 1992, was appropriate. We had given ourselves the responsibility for what the State was responsible for. These are not all repairs to the building. These are capital repairs that would be something that would not be included -- that the tenant would pay for themselves. So there is a cap to what we felt-- It was almost like a deductible. They were responsible for the first $5,000, and then anything that was above that we would consider almost a capital improvement.

SENATOR CARDINALE: So that it’s entirely possible-- This is an old building.

MR. TIGHUE: It is.

SENATOR CARDINALE: It is entirely possible that you could have $200,000, $300,000 worth of repairs with a $50,000 rent.

MR. TIGHUE: Unlikely; that would be unlikely.

SENATOR CARDINALE: It doesn’t make any kind of sense -- unless what you’re really trying to tell us is that it’s in the State’s interest to have this facility continue in operation because it is serving certain people and you’re getting certain beds -- which is the real compensation. Is that the case?
MR. TIGHUE: It’s a combination. So we looked at the benefit for the facility itself with the service that they bring, as well as the monetary lease that they’re getting -- the monetary value to the State with the lease.

SENATOR CARDINALE: If we had need for these beds, why did the State give this facility up in the first place? I know it was a long time ago; maybe you weren’t there.

MR. TIGHUE: No, no. This facility was a former residence house of the hospital. This is--- And I think there needs to be clarification that this is not the entire hospital campus. A hospital campus is several hundred thousand square feet. This is one house that was converted into a group home for this facility. They’ve been there since 1992; again, yes, it was before I got to the State. It was negotiated with the Department of Health and Human Services; they felt there was a need. They continue to feel that it benefits the State; we’ve had conversations with them. However, since they have left the facility, it’s become a Treasury item, and we felt that we needed to see some money instead of just services, and that’s how we negotiated this lease.

SENATOR CARDINALE: I have no other questions.

MR. TIGHUE: Thank you.

MR. SHAUGHNESSY: Any other members have questions on this matter?

MS. MELICK: Assemblyman Moriarty.

MR. SHAUGHNESSY: Okay; thank you. Assemblyman, go ahead.

ASSEMBLYMAN MORIARTY: Hi, good morning. Thank you for being here today.
Could you tell me a little bit more about Freedom House?

MR. TIGHUE: They’re a -- I’m probably not the best person to tell you about them, except that I know that they’re a rehab -- a drug rehab facility.

ASSEMBLYMAN MORIARTY: So do they charge insurance, and do the people who participate pay?

MR. TIGHUE: I don’t know; I really don’t. This is, again, more of a Department of Health and Human Services question.

ASSEMBLYMAN MORIARTY: Okay. How many square feet are we talking about? I didn’t see that here.

MR. TIGHUE: Yes -- I don’t remember.

ASSEMBLYMAN MORIARTY: Can we, in the future, get square footage when we’re renting something? I think that’s kind of basic in the real world -- square footage to cost.

MR. TIGHUE: Sure.

ASSEMBLYMAN MORIARTY: Can you tell me the square footage?

MR. TIGHUE: I don’t remember.

ASSEMBLYMAN MORIARTY: Is there anybody here with you who can tell us how many square feet we’re leasing to somebody?

MR. TIGHUE: Yes, I mean, off the top of my head I don’t know. I think -- I don’t want to guess, so-- I mean, I know I have it in my file; I don’t know--

ASSEMBLYMAN MORIARTY: I’m just-- I’m stunned and floored that we don’t even know how many square feet we’re leasing.
MR. TIGHUE: No, I didn’t say that. I said I don’t know right now off the top of my head.

ASSEMBLYMAN MORIARTY: I said we.

MR. TIGHUE: Okay.

ASSEMBLYMAN MORIARTY: We’re the people who have to make the decision here.

MR. TIGHUE: I understand.

ASSEMBLYMAN MORIARTY: So you’re not even giving us the information to tell us what we’re leasing.

MR. TIGHUE: Correct.

ASSEMBLYMAN MORIARTY: Do you have any idea? Is it a 50-by-100 square?

MR. TIGHUE: I think it’s somewhere -- I think it’s somewhere about 9,000 square feet -- the building. But again, I don’t want to put that on the record; I’m not sure.

ASSEMBLYMAN MORIARTY: Just for the record, I share the Senator’s objections to the annual increases. We need to-- This Board, I believe, needs to have, kind of, standards when it comes to leasing and renting property in this state. And first I commend you that we were getting no money before, and now we’re going to get something -- so I guess I’m very thankful for that. But we need to set the word out to all the departments that we want some kind of standards--

MR. TIGHUE: I have no objection to that, and I think that if we set standards it would be a lot easier in negotiations, because there wouldn’t be a negotiation.
ASSEMBLYMAN MORIARTY: Well, I think that this Board has tried to set standards, and maybe we haven’t communicated that correctly. And I also have a problem with the $5,000 cap on repairs. I mean, if you have people living, day and night, at this facility -- it’s 9,000 square feet or more -- there can be a lot of repairs and we’d be on the hook for them.

But again, I have to commend you for-- We’re getting money now; we weren’t getting money before.

MR. TIGHUE: Correct.

ASSEMBLYMAN MORIARTY: Don’t ask me why. But I would hope that everything that comes before this Board in the future -- or Commission -- actually has some more of these details.

MR. TIGHUE: I understand.

ASSEMBLYMAN MORIARTY: Thank you.

SENATOR CARDINALE: I’d just like to add -- we do frequently get those kinds of details. This particular document that has been provided to us is particularly sketchy by comparison with what we normally get. So the Assemblyman is perfectly right; we should -- we’re entitled to-- You’re expecting us to act, on a long-term basis, and dispose of property of the State, and we really don’t have the facts. We really don’t know what we’re doing on this.

MS. MELICK: And I have just one question. Do you -- and I know you may not know -- how many people are actually in Freedom House getting assistance?

MR. TIGHUE: I think it’s a rotating situation. People may come in for a week or a few days and then it’s another group that comes in.
Again, I think these are more Human Service questions than more of a Treasury question. I don’t really work with Freedom House.

ASSEMBLYMAN RIBLE: And just to add with my colleagues here. I guess we’re talking about a lease with up to $5,000. If it’s possible, if we can get the maintenance schedule of what the annual budget is for this place, because we don’t even know-- And then they’re saying here in the paperwork that if any grant -- any Federal or State grants come in, that automatically will satisfy towards that $5,000. Well, why are they going to pass on the $5,000 and why are we, as a State, not making that go towards our scheduled payments? So I think we need to be more clear, too, what the annual maintenance is of these buildings that we’re giving up the first $5,000 on, for the future.

ASSEMBLYMAN MORIARTY: I just want to make one last statement.

As a matter of protest, from now on, when something comes in -- and starting with this application -- if it doesn’t have information, I’m voting no. That’s it. Because I don’t know whether people think that this Commission is a rubber stamp, but I think the people on this Commission take this very seriously; I know I do. So I’m going to be a no vote on anything that does not have proper information.

SENATOR CARDINALE: Well, I’d like to move that we pend -- we hold this and get the information that has been discussed here. I think it would be very useful for us to know how many beds, how long they keep their clients, whether or not they get compensation from those clients, what percentage of them are compensated, what percentage of them are really a barter through the Department that otherwise would have provided
services elsewhere. We need to have a lot more facts. I’d even like to know the history of maintenance -- to see whether this $5,000 is consentient with what has been going on, or whether much more is going to have to be -- that we know is going to have to be expended on maintenance.

So I don’t know if anyone agrees with me, but I would move that we hold this until we get a much more complete application concerning all of those factors.

ASSEMBLYMAN RIBLE: I’ll second that motion.

MR. SHAUGHNESSY: So we have a motion and second to pend this matter to a later date.

ASSEMBLYMAN MORIARTY: Before we take a vote, I just want to make sure that we don’t put this organization in any jeopardy.

MR. TIGHUE: Well, they’re in holdover right now, which is no rent. So if we wait--

ASSEMBLYMAN MORIARTY: I don’t feel comfortable voting for this, because I would like to know how many square feet-- I mean, we may end up saying we need to be more generous to these people. They may be providing a service and losing money; but they also could be charging insurance and doing quite well and, in that case, they should share in more of the upkeep and repairs on the property as well. So I think without information I’m inclined to agree with the Senator and the Assemblyman in their motion and second.

MR. SHAUGHNESSY: Okay, so we have a motion and second to pend this matter to a later Commission meeting.

SENATOR CARDINALE: Can we make it the next Commission meeting, not a later? Just make it specific.
MR. SHAUGHNESSY: I believe so.
MS. MELICK: Yes.
MR. SHAUGHNESSY: Okay, that will be part of it.
Special Counsel Melick.
MS. MELICK: Yes.
MR. SHAUGHNESSY: Deputy State Treasurer Romano.
DEPUTY STATE TREASURER ROMANO: Yes.
MR. SHAUGHNESSY: Director Holzbaur.
MS. HOLZBAUR: Yes.
MR. SHAUGHNESSY: Senator Cardinale.
SENATOR CARDINALE: Yes.
MR. SHAUGHNESSY: Senator Smith.
SENATOR SMITH: Yes.
MR. SHAUGHNESSY: Assemblyman Moriarty.
ASSEMBLYMAN MORIARTY: Yes.
MR. SHAUGHNESSY: Assemblyman Rible.
ASSEMBLYMAN RIBLE: Yes.
MR. SHAUGHNESSY: Okay, that motion is approved.
Thank you.

On to No. 4, I believe, on the agenda.

Hopatcong State Park, Block 10710, Lot 4, Block 1106, part of Lot 1, Stanhope Borough, Sussex County.

DEP requests the amendment of a previously approved 10-year lease with the Borough of Stanhope for the continued development, maintenance, and operation of outdoor recreational facilities for the benefit of the public. At the December 16, 2013, meeting, the State House
Commission approved a 10-year lease. DEP has determined that leasing the property to the Borough of Stanhope for a 20-year term would not interfere with the plans for development of the property for recreation and conservational purposes as part of Hopatcong State Park, and asks the SHC to approve the request to amend the term to 20 years. The Borough has leased the premises since 1992 and there have been no problems.

Compensation is a one-time payment of $20 and the investment being made by the Borough in the maintenance, improvements, equipment replacement, and insurance coverage on the property and recreational facilities.

Okay, that matter is moved for approval -- sought for approval, I should say; thank you, Counsel.

Any members of the public want to be heard on this matter? (no response)

Any members of the Commission have questions or comments?

SENATOR CARDINALE: Move the approval.

ASSEMBLYMAN MORIARTY: Second.

MR. SHAUGHNESSY: Okay, motion and second.

Special Counsel Melick.

MS. MELICK: Yes.

MR. SHAUGHNESSY: And Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.
MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Yes.

MR. SHAUGHNESSY: Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: The matter is approved.

No. 6 -- pardon, No. 5: Stafford Business Park Open Space Areas, Stafford Township, Ocean County.

DEP, on behalf of the Township of Stafford, requests approval of the Township’s application to amend the November 2010 Green Acres diversion approval, for the installation of a solar facility on the former Stafford landfill, by the Walters Group to incorporate the specific changes as listed in the public agenda.

As to the procedural history, in November 2010 the DEP and State House Commission approved a request by Stafford Township to enter into a 30-year lease with the Walters Development Group for installation of solar panels on top of a closed landfill that had been restricted with a conservation easement. Then, in January 2011, several environmental groups appealed the approval; most recently, in December 2013, the DEP and the State House Commission approved an order directing Stafford to amend its Green Acres diversion application to address several issues raised in the appeal -- primarily related to compensation and mitigation.

Is there anyone from the public who wants to be heard on this matter? (no response)
Any Commission members have any questions or comments with regard to this matter?

SENATOR SMITH: Yes, yes, yes, yes, yes.

MR. SHAUGHNESSY: Senator Smith, please.

SENATOR SMITH: Well, first, how about if we have the DEP up? I’d like to ask how we got into this mess. I remember this application; and, at the time, there was no discussion of the replacement land. And I may have made a bad vote. I voted for it, because they said solar is a (indiscernible) benefit we should encourage -- blah, blah, blah. But why didn’t the DEP, at the time, and as the court is now enforcing, require replacement land?

MS. PICCININI YEANY: Judeth Yeany from the Green Acres Program.

At the time that the application was originally before the State House Commission, we were operating under a dually promulgated administrative rule that pretty much allowed a choice between replacement land or money for park improvements in almost any diversion scenario -- but particularly for leases, allowed the proceeds of those leases to be applied for park improvements; the theory being that you’re not losing the land, so you use the income to improve your other parks.

In the appeal, the appellants raised the issue of that rule being inconsistent with the Garden State Preservation Trust Act, which was the statute that applied to the encumbrance being placed on the landfill. And when we took a closer look at the statute, we realized that that particular statute does not appear to give the same flexibility that the rule would have given in this situation. So we adopted a rule that turned out, in some cases,
to be inconsistent with the statute, and we’re trying to resolve it for this particular application. And, since discovering that discrepancy, we have tried to work through that on a case-by-case basis and not make that mistake in the future.

SENATOR SMITH: Okay. In reading the background information, the issue of whether the State is being fairly compensated has apparently come up -- whether a one-to-one or a one-to-four replacement is correct. Is there a rule? Is it discretionary?

MS. PICCININI YEANY: Well, I think the position of the appellants -- and I think, maybe, some of them are here to comment on that -- but I believe their position would be that having pointed out this discrepancy we should automatically throw this in the pool with any other private diversion, which would normally have a four-to-one compensation ratio. We were struggling in this application, again, with the notion that this is a lease, not a permanent fee taking, and that really with the discrepancy between the rule and the statute having been pointed out to us -- that this category of projects really then fell through the cracks and really wasn’t covered by our rules. So we felt that, in this situation and in this particular application, that reverting to the statute -- which really only specifies one-to-one compensation -- was appropriate. And I think we’ve explained that in a little more detail in the packet as to why we felt that way.

SENATOR SMITH: I saw in our information that there were a number of executed agreements between the parties. Do those executed agreements provide for the land replacement ratio?
MS. PICCININI YEANY: I believe part of what we attached to our submission was actually agreements between the town, the county, and the Pinelands Commission. Those may have been the signatures you saw.

SENATOR SMITH: Not Pinelands Preservation Alliance.

MS. PICCININI YEANY: Oh, I’m sorry. Could you ask the question again?

SENATOR SMITH: Yes. Is there an agreement, at this point, between the appellants and the DEP about the replacement? Or is that still a matter than can potentially be litigated?

MS. PICCININI YEANY: I honestly anticipate that we will still be in litigation at the end of the day on this application -- that the issues may change, but that because those objections have been raised on the record as part of the amended application, that they’re likely to challenge the replacement ratio and the quality of the replacement. But we have evaluated both, and we’re satisfied.

SENATOR SMITH: Okay. Is Pinelands Preservation appearing? Could I ask that they come forward and I can ask them a question?

MR. SHAUGHNESSY: Yes, Senator.

SENATOR SMITH: Mr. Devito, for the record.

DR. DeVITO: Right.

Well, I have lots of comments, but do you have a specific question right now?

SENATOR SMITH: Well, am I right in my understanding that there’s no deal?

DR. DeVITO: There’s absolutely no deal.
SENATOR SMITH: There’s no agreement about this, all right?
DR. DeVITO: No.

SENATOR SMITH: Why does Pinelands Preservation Alliance believe that a four-to-one ratio is correct, as opposed to a one-to-one?

DR. DeVITO: Well, because -- and Jaclyn could -- this is Jaclyn Rhoads, also from Pinelands Preservation Alliance; I’m a Trustee, she’s a staff person. There’s critical endangered specifies habitat here; there are breeding, threatened species of birds -- numerous species are threatened -- and special concern birds. The habitat will be destroyed. There’s nothing in the replacement land that even comes close to being habitat for these birds. So first of all, you know, there’s absolutely nothing being done in order to have this loss of habitat for particular species be replaced in any way. The fact that it’s a lease we think is immaterial, because it’s such a long lease and such a permanent facility. I mean, the life time of solar facilities is decades. And I’m not an economist or a person who amortizes value, but if something is there for 25 to 30 years, that’s tantamount to owning the property. And so we think that it should be four-to-one.

I could go on; in fact, I will go on -- but that was to your specific question.

SENATOR SMITH: Okay. You know, I’ll hold my other questions until I hear what they have to say.

MR. SHAUGHNESSY: Thank you, Senator.

SENATOR SMITH: I thought you did ask for the public to come forward.

DR. DeVITO: Oh, yes. Jaclyn has a comment, too, on this.
JACLYN RHOADS, Ph.D.: But also it’s a private transaction. It’s not like public ownership of land that’s saying, “Okay, now we want to divert for something else,” where you maybe would then justify a one-to-one -- assuming they gave the same quality habitat. In this case, you’re talking about a private entity on top of the fact that the land that they’re trying to replace for it isn’t even the same type of habitat. So above all of those things, I mean, you should apply the four-to-one ratio, as opposed to the one-to-one.

SENATOR SMITH: I’ll hold my questions until we hear--

MR. SHAUGHNESSY: Okay. Do you have-- Are there any other members-- Do you have any other public comment that you want to make?

DR. DeVITO: Well, I could quickly summarize the written--

MR. SHAUGHNESSY: That would be great.

DR. DeVITO: I’ll submit these written comments, and I’ll quickly summarize--

MR. SHAUGHNESSY: Thank you, Mr. DeVito.

DR. DeVITO: Okay. So we’re very concerned because, you know, this is a really grave issue -- Green Acres diversions -- and we don’t believe this diversion comes close to meeting the standard of the Green Acres statutes and regulations. We’re undermining public confidence at a critical time when we’re trying to get the public to support a stable source of funding for Green Acres. We think that this is huge problem.

We don’t believe you should act on this application today because the DEP did not provide the public any reasonable chance to prepare comments on this amended diversion. We only found out that the
DEP had approved the amended diversion when we saw your agenda for this meeting earlier in the week, and we were only able to obtain some of the relevant documents after much effort yesterday afternoon.

SENATOR SMITH: All right, stop for one second. Is there a requirement for public hearings at the local level on this?

JAMES A. MORAN: (off mike) Yes, there is.

ASSEMBLYMAN MORIARTY: Who said it -- who is speaking?

SENATOR SMITH: Somebody said--

MR. MORAN: I'm the Administrator for Stafford Township, and there were public hearings on this matter.

SENATOR SMITH: Okay.

DR. DeVITO: No, but not on the solution -- on a proposed solution. We don’t have-- I mean, we don’t have-- I mean, we’re litigants in this issue, and we have no idea, until yesterday, what sort of arrangement has been made.

SENATOR SMITH: You had no notice of the hearings?

DR. DeVITO: Only when the State House Commission agenda was--

SENATOR SMITH: Right. But the hearings at the local level--

DR. DeVITO: We participated in those.

SENATOR SMITH: Oh, you did; all right.

DR. DeVITO: Yes, right.

So-- Well, there’s no reason to read this. I just want to make one more point.
There is no reason to believe Walters will even build the solar array that is supposed to be the justification for this diversion. Stafford Township admitted that there were no plans to build a solar array due to the change in economics of new solar facilities, but they want the diversion approved just in case. That was, you know, what we’ve heard in the last -- during the last part of this application process. Nothing in the DEP materials that we obtained changes the admissions that the Township made in its amended application.

Regarding the endangered species -- again, Green Acres has stated that they’re satisfied. Well, they’re relying on, again, on the developer’s consultant report that somehow this endangered species habitat -- since it only was created three or four years ago -- is somehow not that valuable and somehow less than sterling habitat. This is an exemplary grassland that was created as part of a landfill cap. It’s not a landfill anymore; it’s clean, right? It’s been cleaned and been turned into parkland, and it’s been turned into endangered species habitat, and that was the point back in 2006 when everybody signed off on this deal -- including our organizations -- with the Pinelands Commission and the DEP. And it turned into endangered species habitat, as was predicted, and the endangered species have been successfully breeding there now for three, perhaps four years. I found them in 2011; they successfully bred in 2011, 2012, 2013 --- actually, that’s four years. I’m sure they’ll be back next year; it could have been that I found them in 2012. The years go by so fast, so please, excuse me on that.

And this habitat will absolutely be destroyed by a solar facility. Grassland birds can’t breed underneath a solar facility; that’s a fact.
Now, again, the Endangered Species Advisory Committee has not even been consulted on this. This is the first time that we're ever going to absolutely go in and completely destroy an entire habitat. This is far more egregious than what we talked about earlier today with a roadway that bisects a swamp. The swamp is sort of still there, and the question is, will it still function as a habitat? In this case, the habitat is gone -- the entire habitat. There won’t be any habitat. We believe this to be a take under the New Jersey Endangered Species Conservation Act. This is a take of habitat. And if the first shovel that’s put in the ground -- that will be a new lawsuit, because this is the first example of the DEP willingly agreeing to an actual take of endangered species habitats on parkland, and it’s complete obliteration.

That’s all I have to say. Thank you.

MR. KOTLER: Senator, in case you have another question, I just wanted the Commission to be aware -- if they’re not already, because there was a reference by Mr. Shaughnessy, as well as some of the speakers -- that this is a subject of litigation right now.

SENATOR SMITH: Right.

MR. KOTLER: And not only has DEP, but the Commission has been named as a defendant in this matter. And we do have here today one of my colleagues from the Attorney General’s Office who is representing DEP and the Commission, if there are any questions about the procedural status of the--

SENATOR SMITH: Sure. The Attorney General? I’d love to talk to him for a second -- the DAG.
DR. RHOADS:  If I could just add two comments as well; and just to clarify, I did put in a slip; I just got here. So my name is Jaclyn Rhoads and, again, I’m with Pinelands Preservation Alliance.

But one, the justification for the diversion before you today is that they had come up with a lease -- meaning DEP. We have not seen a copy of that; I don’t know if you have seen a copy of what the agreed-upon lease arrangement has been. But, obviously, this is something that should be brought to the table since that’s the justification for how they’re going to work out this agreement for the diversion. We have not seen a copy; I don’t know if you have -- final copy that’s been presented to you today by DEP.

SENATOR CARDINALE:  I think we have to hear that from the Attorney General.

DR. RHOADS:  Secondly, one of the other justifications is that the diversion removes about, I believe, 28 percent, or 13 acres, of what would have been considered diverted lands from the landfill; but, in reality, all they’ve done is removed the lands that were supposed to be used for meeting stormwater requirements. So that doesn’t really serve as justification, because you still need to use those lands for stormwater so, in essence, that’s still a diversion, and I don’t how you cannot count that land into the diverted number of acres.

So I just wanted to clarify those two specific points because I think they are critical to the matter.

So thank you.

SENATOR SMITH:  Is the Attorney General present?  Is the Deputy Attorney General present?
DEPUTY ATTY. GENERAL MARK COLLIER: (off mike) I’m right here.

MS. MELICK: He’s right here.

SENATOR SMITH: Okay.

SENATOR SMITH: Why--

MR. SHAUGHNESSY: Excuse me, Senator--

MS. MELICK: Excuse me, Senator, we were just discussing whether we need to make clear -- because the Attorney General’s Office is representing the State House Commission -- whether this needs to be part of an Executive Session or not.

SENATOR SMITH: It’s a matter of litigation, I think; to protect the State’s butt, it better be a matter of--

MR. KOTLER: Yes, if that’s an appropriate area to go into.

SENATOR SMITH: But how do we go forward with this matter? I mean, everything that the State is saying is on record.

DEPUTY STATE TREASURER ROMANO: Well, that’s legal advice and that should be the subject of discussion with the--

MS. MELICK: Right, and I think the question is, is it necessary for us to go forward?

MR. SHAUGHNESSY: It’s my understanding that the State House Commission is named in the appeal and we’re represented by the Attorney General’s Office.

SENATOR SMITH: So is it your recommendation, Mr. Shaughnessy, that we should go forward with public comment -- listen to it, not take action, then go into Executive Session?
MR. KOTLER: Well, it would be my recommendation as the Counsel.

SENATOR SMITH: Okay.

MR. KOTLER: Let’s finish with the public comment, and then at the end, then we’ll go into Executive Session.

SENATOR SMITH: Okay, very good. I believe in following my lawyer’s advice. (laughter)

MS. PICCININI YEANY: May I address a couple of factual points before Mr. Tittel testifies? I’m afraid I’m going to forget some of the points that were already raised.

SENATOR SMITH: It’s happening to all of us. (laughter)

MS. PICCININI YEANY: As far as whether we would characterize this is as a private project to which a four-to-one replacement ratio would normally apply -- both in the original application and, I believe, in our supplemental memo we pointed out that this project really is a hybrid; this is a redevelopment project, I think in some ways you could characterize it is a public-private partnership. There were electric utility benefits to the county as part of this project, where electricity was going to be sold at a discounted rate. And we had itemized, both in the original application and now, the public benefits associated with the landfill closures and the overall redevelopment project.

So I’m not sure that we ever would have characterized this as purely a private project.

SENATOR SMITH: Yes, what about the allegation, though, from Mr. DeVito that this is a “take” of threatened and endangered land?
MS. PICCININI YEANY: Well, I think we have a couple of issues here. I think -- and you can ask Mr. Collier about this later -- I mean, there basically is a time of decision -- the DAG. There’s a time of decision argument as far as us not having any species information before us in 2010 when we made the initial decision. There were no sightings, there was no information. The project was approved; that information was brought to our attention later -- after Walters and the Township had approved this project, and had started to implement, it and made some capital investments.

You know, the species are out there now; I think the allegation is that if the project were expanded, that would be a take. But our analysis in the supplemental memo was that this project is also under the supervision of the Pinelands Commission, and there are specific requirements in both that 2006 and 2010 MOA that if species are sighted out there they need to consult with Pinelands and their own endangered species office. So we didn’t see the need to supersede that process with our own mitigation requirements. So essentially we’re not imposing mitigation requirement on what’s been built out there already -- which is roughly 10 percent of the entire site. The birds are there; I don’t know that the allegation is that they are being significantly affected yet, but that full build-out would affect them. So we believe that Pinelands and their own endangered species office has jurisdiction to address impacts if the project is ever built. I’m not sure what--

I think there was at least one other issue, but I’ll--
SENATOR SMITH: Just to follow up on that. You said that there is a Memorandum of Agreement that currently exists, I guess, between Stafford, the developer, and the Pinelands Commission?

MS. PICCININI YEANY: Oh, yes. Well, we included, as an appendix to our memo, in the record the two MOAs that have been negotiated for this project. There was one to allow the mixed-use commercial landfill closure project to happen in the first place, as far as it’s consistency with the Pinelands Comprehensive Management Plan. And then that plan was amended in 2010, around the time that the Commission approved the diversion for the project to allow the solar project to happen.

SENATOR SMITH: Did you say that if threatened endangered species were sighted on the project, that it would then have some kind of a further review process with the Pinelands Commission?

MS. PICCININI YEANY: I believe the MOA says that a biologist needs to be on-site and that species sightings need to be reported to Pinelands and our Endangered Species Office. And Walters or Stafford could confirm or deny that.

SENATOR SMITH: Do you know if they’ve done that?
MS. PICCININI YEANY: On this project?
SENATOR SMITH: Yes.

MS. PICCININI YEANY: No, I don’t -- I think the scenario here was, as I said, we had no sighting information in-house at the time the project was approved.

SENATOR SMITH: Right.

MS. PICCININI YEANY: That sighting information was obtained by the appellants, brought to our attention as a part of the appeal.
but during a time that I think construction of the initial phase of the project had stopped.

As far as why we didn’t provide the lease as part of the amended application, we were informed of the basic changes to the financial terms as far as going over a new rent scenario and the other items that we detailed in our memo. But we didn’t feel we were at liberty to include the draft lease amendment in the package because town council had not officially acted on it at that point. They have now approved it. But we would have been sharing a document that was still, in some respects, immaterial to this being negotiated between the parties, and we didn’t feel we were at liberty to share that.

SENATOR SMITH: Okay, thank you.

MR. SHAUGHNESSY: Any of the members of the public?

Mr. Tittel.

MR. TITTEL: Yes, thank you.

I just wanted to say that Sierra Club has a long history -- in fact, many of our colleagues sometimes disagree with us -- but we support solar on former landfills. We think it’s a good place for them.

The problem here is that that former landfill has now become good habitat and has endangered species on it, and bird species on it. And we believe that this project should no longer be considered viable. One, they do not have someone to actually put the solar there. If they do, it will now cause violation of, we believe, other programs that are in place, and rules. We also believe that solar could go somewhere else on this site. There’s a fairly large piece of property next door, where the business park is.
It could go on the roofs, it can go in the parking lot, it can go in a lot of other places. And there are alternatives for it.

The other concern we have is, at the same time, you have the State -- the Division of Fish and Wildlife -- wants to create habitat in the Pinelands and other places for bird species. They want to take down trees where we always have problems and because sometimes you can open up canopy forests for invasive species or deer overpopulation. So what we’re going to do is, we’re going to take exactly what we want, which is an area that’s been restored and has become grassland species down in the Pines for grassland birds and others, and now we’re going to destroy it with putting solar panels on it, when we can put the solar panels somewhere else.

And the fact that this is a diversion on a diversion is one of the reasons that we’ve had a problem with this all along. I mean, the whole concept of going to the State House Commission and doing diversion is so that you can do something for the public good. But then the lands that you set aside for that diversion all of a sudden get diverted again. You know, I think that’s a real serious policy decision. Because that means that every time you come in here and you set aside lands to allow some thing that has some benefit, or potentially has some public benefit, and then you set these lands away to say, “This is what we’re going to do to mitigate for that disturbance of taking public lands;” and then less than 10 years later you’re back taking that same land you set aside to go put something else on it -- I think it really sets a bad policy. I mean, the whole purpose of it is to make sure that lands that are protected now from a diversion stay protected and not get diverted again.

Thank you.
DR. DeVITO: (off mike) I’m sorry; I’d just like to add a couple of clarifications.

MR. SHAUGHNESSY: Please, you can’t be heard back there, Mr. DeVito.

DR. DeVITO: Yes. I just want to add a couple of clarifications, for the record, to make sure that it’s clear.

Ms. Yeany references the 2006 memorandum. And the deliberations that led up to that memorandum at the Pinelands Commission envisioned this landfill cap becoming endangered species habitat for pine snakes, for grassland birds -- you know, that was part of the deliberation -- that this is going to be a great set-aside; the landfill is going to be cleaned up and it’s going to become good habitat, and things are likely to show up.

And, indeed, those birds did show up the minute that the grass started to germinate and mature, and then the habitat was in place after the landfill closure and restoration -- exactly what was predicted happened.

When we heard about the request for the diversion of the diversion, we went and we looked at the habitat and, indeed, there were the species that were predicted to be there. So we found them as soon as we possibly could; we reported them to the Pinelands Commission, to the DEP, to the Endangered Species program -- full reports of-- I mean, we even have photographs of the endangered birds singing on territory, during the breeding season, from the vent pipes that were part of the landfill restoration. So, I mean, it’s absolutely clear that the birds did exactly what was predicted; they’re there, they’re going to stay there; it’s a perfect habitat, and everybody knows about it.
Thank you.

MR. SHAUGHNESSY: Yes, Assemblyman Moriarty.

ASSEMBLYMAN MORIARTY: Thank you very much.

I have to apologize. I'm the Chairman of the Assembly Consumer Affairs Committee, which starts in about 10 minutes. So I must leave at this point.

I just wanted to say I am a no on this item, and I have looked at all the other items -- I'm a yes on all the other items on the agenda.

MR. SHAUGHNESSY: Okay, this matter is a no; the rest are yes.

ASSEMBLYMAN MORIARTY: Yes, thank you.

MS. MELICK: Thank you, Assemblyman.

ASSEMBLYMAN MORIARTY: Sorry.

MR. KOTLER: Assemblyman, that also includes the Judicial Board?

ASSEMBLYMAN MORIARTY: Yes

MR. KOTLER: Okay, thank you.

JOSEPH A. DEL DUC A, Esq.: Good morning.

MR. SHAUGHNESSY: Please identify yourself, sir.

MR. DEL DUC A: My name is Joseph Del Duca; I’m with the Walters Group, the redeveloper on this project. And I won’t torture you with the long history of this, but I did want to point out a couple of things.

Mr. DeVito -- Dr. DeVito just testified about predictions concerning the habitat, which is actually not a true statement. There were no predictions about the landfill -- the closed and capped landfill, which we spent tens of millions of dollars to close and cap, that they were going to
become habitat. In fact, we were required to provide replacement habitat as part of the overall redevelopment plan, and we spent a great deal of money creating hibernacula in the State forest immediately adjacent to this property. We are just now -- 7 or 8 years into it -- finishing that program. I think we spent $2.5 million on that effort.

We had requested, in the beginning, that we get credit for the capped landfill when it was restored as habitat. That was summarily and unceremoniously rejected -- that it would never be suitable habitat for any species, and we got no credit whatsoever for that -- and we had to replace all of that habitat. We already did that, and we did it at great expense. And we, in addition, had to work -- through the Township, purchased approximately 1,000 acres of land that were permanently restricted from development, going forward.

And I think one of the ironic things that I think is important for you to understand is that the grass species that we were originally required to put on the landfill, and we started to put on the landfill, PPA came to us and said, “We think there’s a better species of grassland to put there.” We had no requirement to do it; they requested that we agree with them and do it. It cost more money to do it, and trying to be a good corporate citizen at the time, we did that and created this grassland -- if you want to call it habitat -- habitat. And so the unfortunate result of our good deed is that we’re now here today fighting over what is being called predicted and known habitat -- which just isn’t the way it happened. It’s unfortunate; we’re invested a great deal of money in the solar project. We’ve lost a great deal of money in that investment. And all we’re trying to do is preserve the right to keep what we already have -- which is about 1
megawatt -- a little less than that. And we already have all the approvals in place to do up to 5.6 megawatts -- the intention being to provide solar energy not only to the governmental agencies -- which are the County and the Township, which we already do -- but to try to provide solar energy to as large a portion of this redevelopment project as we can -- which we think is consistent with the MOA and the goals of trying to make the project as sustainable as possible.

And we’ve certainly adhered to that throughout the entire project. Every building in the project is LEED-certified; we built the first Gold LEED certified affordable project in the state there. We have Platinum LEED certified buildings. We have done everything that we can do to make this work, and we’ve gotten caught in the switches here of a very unfortunate situation that has been devastating for us, financially. It continues to be devastating for us, and we’re trying to work our way through it. And being stuck in the litigation and the continuing cost of having to go through this is anguishing for us and the people who work for us.

So I thought it was important for you to understand some of the background of it. Thank you.

MR. SHAUGHNESSY: Thank you, Mr. Del Duca.

Okay, if there is no other public comment--

MR. MORAN: Yes, I would like to put one comment on the record, sir?

MR. SHAUGHNESSY: Please identify yourself.

MR. MORAN: I’m James Moran; I’m the Administrator for Stafford Township. I’m representing the Council here today.
My comments really go to Senator Smith’s question about compensation, and the comments from others that it’s unclear that the compensation was not outlined in the agreement.

There was an agreement, as everyone I believe is aware, between Stafford Township and the Walters Group for compensation in the previous agreement. There was also an agreement at that time that should there ever be a demand for mitigation land, Walters Group would be responsible for the payment for that mitigation land.

Mitigation land has been provided; Walters Group has paid the Township in accordance with that, and has done so in accordance with appropriate appraisals done on both the landfill property that was of like, as well as the land that’s being diverted out of our pool of land.

In addition to that, we have negotiated a new lease -- a 10 percent net lease for the proceeds from the solar farm. Finally, in addition, and it’s a holdover from the prior agreement, there’s a 20 percent discount to Stafford Township for all of our facilities in the business park -- which is our Public Works yard -- and a large water facility. And then there are a number of County facilities in there that receive a 10 percent discount on electricity from the Atlantic City Electric rate.

So there is substantial benefit to all parties today. We anticipate -- although not substantive -- lease revenue in the next couple of years, and that’s four years from now. The debt service on the current project is fully amortized. We will see substantial leased monies, and they will go directly into our park program.
SENATOR SMITH: When you say that the town has been compensated for the new diversion land -- you’re referring to the one-for-one--

MR. MORAN: The one-for one -- yes, sir.

SENATOR SMITH: Right. Is there additional land-- Suppose a court says it has to be four-for-one; what happens then?

MR. MORAN: Well, I guess at that point, somebody is going to have to figure out where we’re going to find the additional land. Not unfortunately; actually, it’s very fortunate thing. But Stafford Township is about 70 percent preserved today. So at one time, when I was the Superintendent of Schools in Stafford Township, at the Southern Regional High School, we had a build-out projected in the town of about 65,000 people. We have a build-out projected in the town today of about 28,000 people. So it’s substantially different and, therefore, I don’t know where we would find that land, at least in Stafford Township.

SENATOR SMITH: The application before us is for a lesser amount of property than the last time, correct?

MR. MORAN: Correct.

SENATOR SMITH: Why is that?

MR. MORAN: Because there’s already a piece of property in use, and I don’t believe they’re going to use as much for the solar farm as they were intending originally.

SENATOR SMITH: Okay, thank you.

MR. SHAUGHNESSY: Thank you, Mr. Moran.

MR. MORAN: You’re welcome.

MS. MELICK: I think at this point we’re going to--
MR. SHAUGHNESSY: Okay, at this point, with the Commission’s consent, I would ask for a motion to go into Executive Session to receive legal advice from Deputy Attorney General Mark Collier, and to discuss the pending appeal concerning this matter.

SENATOR CARDINALE: So moved.

SENATOR SMITH: Second.

MR. SHAUGHNESSY: So motion and second.

I’ll call the roll.

MR. SHAUGHNESSY: Special Counsel Melick.

MS. MELICK: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: I assume Assemblyman Moriarty would be marked in the affirmative.

Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: Okay, we’re now moving to Executive Session.

MR. KOTLER: The minutes will remain confidential until that need for confidentiality has expired.
MR. SHAUGHNESSY: Thank you, Counselor.

(Commission enters into Executive Session at 10:32 a.m.)

(Commission returns from Executive Session at 11 a.m.)

MR. SHAUGHNESSY: Okay, thank you very much. The Commission is back in public session.

We’re again on No. 5. We’re going to-- If there’s no further comment, then we’re going to take a motion on No. 5 on the agenda.

May I have a motion?

SENATOR CARDINALE: Motion to move.

ASSEMBLYMAN RIBLE: Second.

MR. SHAUGHNESSY: Motion and second.

Special Counsel Melick.

MS. MELICK: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: No.

MR. SHAUGHNESSY: Assemblyman Moriarty voted no; okay.
MR. SHAUGHNESSY: And Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: Okay, that matter is approved.

On to No. 6, Millville Wildlife Management Area, the described location in the public agenda: DEP requests amendment of a previously approved 20-year lease with Atlantic City Electric for the use of a right-of-way for the operation, maintenance, repair, renewal, and removal of an existing transmission line for the distribution of electricity. At its June 16, 2014, meeting, the State House Commission approved a 20-year lease with Atlantic City Electric. The new lease will replace and supersede a 50-year lease with Atlantic City Electric that expired in 2009 for the same right-of-way.

During the Department’s reviews and drafting of the lease agreement, it was determined that a number of needed amendments to the lease are required. The requested amendments are specified and specifically set forth in the public agenda.

This matter is submitted for approval.

Do I have any members of the public who want to be heard? (no response)

Any Commission members want to be heard on No. 6? (no response)

If not, then--

SENATOR CARDINALE: Move the approval.

MR. SHAUGHNESSY: Motion; second?

SENATOR SMITH: Second.

MR. SHAUGHNESSY: Motion and second; thank you.
Special Counsel Melick.

MS. MELICK: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty has been marked in the affirmative.

Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: The matter is approved.

Now, onto new business.

No. 7, RPR 14-18: Former Marlboro Hospital, Block 159, part of Lot 11, Marlboro Township, Monmouth County.

Treasury requests approval to grant a utility easement to JCP&L on the grounds of the former Marlboro Hospital. As part of the demolition and site restoration, the powerhouse, which supplies utilities to the water and wastewater treatment plants, will be demolished. Utilities at the powerhouse must be terminated and delivered to the site from an alternate location on State-owned property along Conover Road.

Since this project directly benefits the State, the utility easement is proposed to be granted for $1.
Any members of the public wish to be heard? (no response)
Any Commission members wish to be heard? (no response)
Hearing none, may I have a motion?
SENATOR SMITH: Move the matter.
SENATOR CARDINALE: Second.
MR. SHAUGHNESSY: Motion and second.
Special Counsel Melick.
MS. MELICK: Yes.
MR. SHAUGHNESSY: Deputy State Treasurer Romano.
DEPUTY STATE TREASURER ROMANO: Yes.
MR. SHAUGHNESSY: Director Holzbaur.
MS. HOLZBAUR: Yes.
MR. SHAUGHNESSY: Senator Cardinale.
SENATOR CARDINALE: Yes.
MR. SHAUGHNESSY: Senator Smith.
SENATOR SMITH: Yes.
MR. SHAUGHNESSY: Assemblyman Moriarty.
MR. KOTLER: Yes.
MR. SHAUGHNESSY: Oh, pardon me. Assemblyman Moriarty is marked in the affirmative.
Assemblyman Rible.
ASSEMBLYMAN RIBLE: Yes.
MR. SHAUGHNESSY: That matter is approved.
No. 8: RPR 15-02, 155 Willowbrook Boulevard, Block 210, Lot 15, Wayne Township, Passaic County.
Treasury, on behalf of the Division of Lottery, requests approval to sublease up to, and not to exceed, 5,790 square feet of office space. The Division of Lottery pays an effective rate of $27.48 per square foot in this matter. The lease expires on April 30, 2017. The lessor is willing to cooperate on a sublease. In any sublease, the State would continue to pay the lessor the difference between the sublease rental and the State’s effective rate of $27.48 per square foot for the remaining term, expiring on April 30, 2017.

The State will market the property through the lessor, and also directly offer the space to the public on one or more real estate sites. The State shall obtain net cost savings under any sublease obtained.

That matter is being requested for approval.

Any members of the public wish or want to be heard on this matter? (no response)

Any Commission members want to be heard on this matter?

SENATOR SMITH: A question for you.

MR. SHAUGHNESSY: Yes, Senator Smith.

SENATOR SMITH: My recollection is that we sold the Lottery, yes?

DEPUTY STATE TREASURER ROMANO: We entered into a contract for the provision of sales and marketing services; that was it. Otherwise, the Lottery is functioning and operating -- the State operates the Lottery, as required by the Constitution.

SENATOR SMITH: Why wouldn’t the operator that we’ve-- Have we hired it, or did we bid that? I forget.
DEPUTY STATE TREASURER ROMANO: It was bid out publicly.

SENATOR SMITH: Yes, why did they not succeed to the lease?

DEPUTY STATE TREASURER ROMANO: Because they have-- My recollection is that they have their own space for their own employees. This was space, I believe, used by Lottery employees who are no longer Lottery employees. Is that-- That was my understanding.

MR. SHAUGHNESSY: We have someone from Treasury here, I think, who can perhaps answer that question.

Please identify yourself.

RICHARD WESTBROOK: My name is Richard Westbrook; I work in the Division of Property Management.

The space became available when the Lottery was outsourced. And I don’t have -- I’ve never seen the contract under that, but I was tasked, in 2013, for finding either another State tenant, or making space available -- hopefully under sublease.

SENATOR SMITH: Do you know, in fact, if the operator has no obligation to pay this rent?

MR. WESTBROOK: I do not. I assume that’s the case, but I don’t know that for sure.

SENATOR SMITH: Okay. You know, I hate to pay the rent if we have no obligation to pay it. Somebody should check that.

DEPUTY STATE TREASURER ROMANO: Again, my understanding -- and we can check it -- is that the--

SENATOR SMITH: That the State is obligated--
DEPUTY STATE TREASURER ROMANO: They’re *(sic)* obligated to pay for our space, and they’re obligated to pay for their space.

SENATOR SMITH: Okay. Well, I have no problem going ahead with it, but I would like somebody to double check it. I hate to pay rent when I’m not--

DEPUTY STATE TREASURER ROMANO: I agree, Senator. But I--

SENATOR SMITH: You’re pretty sure.

DEPUTY STATE TREASURER ROMANO: I’m pretty sure that’s--

SENATOR SMITH: All right; do the double check.

Thank you.

MR. SHAUGHNESSY: Okay. Any other members of the public or Commission members want to be heard on this matter?

SENATOR SMITH: Move the matter.

MR. SHAUGHNESSY: Thank you, Mr. Westbrook.

SENATOR CARDINALE: Second.

MR. SHAUGHNESSY: Motion and second.

Special Counsel Melick.

MS. MELICK: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.
MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty has been marked in the affirmative.

Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: The matter is approved.

Next, on to No. 9, RPR 15-06: Trenton Office Complex.

Treasury requests approval to lease commercial space within the Trenton Office Complex to Blimpie, doing business as 1195 B.A. Realty, Inc., principal Kimberly A. Lane, to be used for retail services. Blimpie is the current tenant of this space; however the current lease is expiring at the end of the year and a new lease must be approved.

The lease will be for a term of five years, with two, five-year renewal options. The annual rent for the first year will be $52,200, with annual increases of 2.5 percent based on the previous year’s rent.

Any members of the public want to be heard on this matter? (no response)

Any Commissioners wants to be heard on the matter? (no response)

Hearing none, I request a motion.

SENATOR CARDINALE: So moved.

MS. MELICK: Second.

MR. SHAUGHNESSY: Okay; I’ll call the roll.

Special Counsel Melick.

MS. MELICK: Yes.
MR. SHAUGHNESSY: Deputy State Treasurer Romano.
DEPUTY STATE TREASURER ROMANO: Yes.
MR. SHAUGHNESSY: Director Holzbaur.
MS. HOLZBAUR: Yes.
MR. SHAUGHNESSY: Senator Cardinale.
SENATOR CARDINALE: Yes.
MR. SHAUGHNESSY: Senator Smith.
SENATOR SMITH: Yes.
MR. SHAUGHNESSY: Assemblyman Moriarty has been marked in the affirmative.

Assemblyman Rible.
ASSEMBLYMAN RIBLE: Yes.
MR. SHAUGHNESSY: The matter has been approved.

No. 10, on to the DOT requests.

Route 4 -- currently Route 9 -- Section 1, Parcels VX4 and VX5, Block 1622, adjoining Lot 1, City of Somers Point, Atlantic County.

DOT requests approval to dispose of a 0.024-acre surplus vacant lot to 720 New Road LLC -- the contract purchaser for the property adjacent to parcels VX4 and VX5 -- and wishes to acquire the parcels for assemblage to the adjacent commercial property to allow for greater vehicle circulation and parking for the proposed commercial development of the adjacent property.

The property will be sold directly to the contract purchaser of the only adjacent property; the recommended sale price is $22,000, the appraised value.

Any members of the public want to be heard? (no response)
Any Commission members have any questions or comments?

(no response)

If not, motion?

SENATOR CARDINALE: So moved.

MR. SHAUGHNESSY: Second?

ASSEMBLYMAN RIBLE: Second.

MR. SHAUGHNESSY: Special Counsel Melick.

MS. MELICK: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty in the affirmative.

Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: That matter is approved.

No. 11: Route 1, Section 8, Parcel VXR81B, Block 337L, adjacent to Lot 15A, Edison, Middlesex County.

DOT requests approval to dispose of an irregular-shaped lot containing an area of approximately 0.078 acres, adjacent, to the only
adjoining property owner, Dana Ciobanu, C-I-O-B-A-N-U, for $5,000, the appraised value.

Any members want to be heard -- or any public or members want to be heard on this matter? (no response)

Hearing none, motion please.

MS. MELICK: So moved.

MR. SHAUGHNESSY: Second?

SENATOR CARDINALE: Second.

MR. SHAUGHNESSY: Special Counsel Melick.

MS. MELICK: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty is in the affirmative.

Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: The matter is approved.

On to the next matter, No. 12.

Route 4, current Route 9, Section 40, part of Parcel 9A, Block 18.01, adjacent to Lot 1.03, Manalapan Township, Monmouth County.
DOT is seeking approval to lease, on a month-to-month basis, to PMG, New Jersey, LLC, an area of 25 square feet. The property is adjacent to property owned by PMG, New Jersey, LLC and will be used for that portion of the footing and base of an existing sign.

The monthly lease amount is $10.83 per month, for a yearly rental for $130, the appraised value. The rental will increase according to the rent schedule of the lease.

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

Any members of the Commission want to be heard? (no response)

If not, motion?

SENATOR CARDINALE: So moved.

MR. SHAUGHNESSY: Second?

ASSEMBLYMAN RIBLE: Second.

MR. SHAUGHNESSY: Special Counsel Melick.

MS. MELICK: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty voted in the affirmative.
And Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: The matter is approved.

No. 13: Project is Route 130, Section 8, Parcels V116 and V106A, Block 1407, adjacent to Lot 29.01, Block 1404, Lot 1, Cinnaminson Township, Burlington County.

DOT requests approval to exchange an irregular-shaped lot containing approximately 1.151 acres of excess surplus land in Cinnaminson Township to the only adjacent property owner, New Plan Cinnaminson Urban Renewal LLC -- for assemblage to its adjacent developed commercial property -- for property containing approximately 3.472 acres which has been used for Route 130-related roadway improvements.

The parcels will be exchanged, as I said previously, to the only adjacent property owner, and the compensation will be for $1.

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

Any members of the Commission have a question or comment? (no response)

Hearing none, may I have a motion?

SENATOR SMITH: So moved.

MR. SHAUGHNESSY: Second?

SENATOR CARDINALE: Second.

MR. SHAUGHNESSY: Special Counsel Melick.

MS. MELICK: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.
MR. SHAUGHNESSY: Director Holzbaur.
MS. HOLZBAUR: Yes.
MR. SHAUGHNESSY: Senator Cardinale.
SENATOR CARDINALE: Yes.
MR. SHAUGHNESSY: Senator Smith.
SENATOR SMITH: Yes.
MR. SHAUGHNESSY: Assemblyman Moriarty is in the affirmative.
Assemblyman Rible.
ASSEMBLYMAN RIBLE: Yes.
MR. SHAUGHNESSY: That matter is approved.
On to new business; DEP requests.
No. 14: Municipal Open Space, Block 2711, part of Lot 104.01, in Wayne Township, Passaic County.

DEP, on behalf of the Township of Wayne, requests approval to allow the Township to convey a subsurface water line easement to DJK Property, LLC -- Julie Ezra, Principal -- through 0.011 acre of municipal open space for the purpose of providing potable water service to a new business. The subsurface easement will be located beneath a retention basin and a paved roadway that will provide vehicular public access to the parkland once it is developed for active recreation.

As compensation, DJK Property, LLC shall pay $2,500 to the Township. The Township shall deposit these funds into its dedicated Open Space Trust account for future acquisition of parkland.

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

Hearing none, may I have a motion, please?
SENATOR SMITH: So moved.
MR. SHAUGHNESSY: Second?
SENATOR CARDINALE: Second.
MR. SHAUGHNESSY: Special Counsel Melick.
MS. MELICK: Yes.
MR. SHAUGHNESSY: Deputy State Treasurer Romano.
DEPUTY STATE TREASURER ROMANO: Yes.
MR. SHAUGHNESSY: Director Holzbaur.
MS. HOLZBAUR: Yes.
MR. SHAUGHNESSY: Senator Cardinale.
SENATOR CARDINALE: Yes.
MR. SHAUGHNESSY: Senator Smith.
SENATOR SMITH: Yes.
MR. SHAUGHNESSY: Assemblyman Moriarty in the affirmative.
Assemblyman Rible.
ASSEMBLYMAN RIBLE: Yes.
MR. SHAUGHNESSY: That matter is approved.
No. 15: Newton Lake Park, Block 1.01, part of Lot 1, Oaklyn Borough, Camden County.

DEP requests approval to allow the diversion of a total of 0.013 +/- acres of parkland within Newton Lake Park, in connection with the northern phase of the Public Service Electric and Gas Southern
Reinforcement Program. The PSE&G project consists of the construction of two new underground circuits to connect the company’s Gloucester Switching Station, Cuthbert Substation, and the Camden Switching Station. The diversion involves the installation of an underground electric current.

To compensate, the County will pay $2,500 to be deposited into the Garden State Preservation Trust Fund for land acquisition and/or park development purposes.

Any public comment on this? (no response)
Any Commission members have any comment? (no response)
Hearing none, may I have a motion?
SENATOR CARDINALE: So moved.
MR. SHAUGHNESSY: Second?
ASSEMBLYMAN RIBLE: Second.
MR. SHAUGHNESSY: Special Counsel Melick.
MS. MELICK: Yes.
MR. SHAUGHNESSY: Deputy State Treasurer Romano.
DEPUTY STATE TREASURER ROMANO: Yes.
MR. SHAUGHNESSY: Director Holzbaur.
MS. HOLZBAUR: Yes.
MR. SHAUGHNESSY: Senator Cardinale.
SENATOR CARDINALE: Yes.
MR. SHAUGHNESSY: Senator Smith.
SENATOR SMITH: Yes.
MR. SHAUGHNESSY: Assemblyman Moriarty in the affirmative.
Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: The matter is approved.

We previously took No. 16.

No. 17: Liberty State Park, Block 24501, part of Lot 2, Jersey City, Hudson County, Upper New York Bay.

DEP requests approval to lease a total of approximately 0.29 acres of land within Liberty State Park to the Jersey City Municipal Utilities Authority for the purpose of the installation, maintenance, and repair of water and wastewater pipelines to Liberty Island. The Jersey City Municipal Utilities Authority provides water and wastewater services for Liberty Island.

The lease will be for 20 years. The rental was established by appraisal and includes a 2.5 percent annual escalation clause. The rent for the first year is $5,460 with, as previously stated, the 2.5 percent escalation. The total rent over the 20 year term will be $139,473.96.

Any members of the public have any comments on this? (no response)

Any members of the Commission want to be heard on this? (no response)

Motion?

DEPUTY STATE TREASURER ROMANO: So moved.

MR. SHAUGHNESSY: Second?

MS. MELICK: Second.

MR. SHAUGHNESSY: Okay, motion and second.

Special Counsel Melick.
MS. MELICK: Yes.
MR. SHAUGHNESSY: Deputy State Treasurer Romano.
DEPUTY STATE TREASURER ROMANO: Yes.
MR. SHAUGHNESSY: Director Holzbaur.
MS. HOLZBAUR: Yes.
MR. SHAUGHNESSY: Senator Cardinale.
SENATOR CARDINALE: Yes.
MR. SHAUGHNESSY: Senator Smith.
SENATOR SMITH: Yes.
MR. SHAUGHNESSY: And, for the record, Assemblyman Moriarty has indicated an affirmative vote on all of the remaining matters.

Assemblyman Rible.
ASSEMBLYMAN RIBLE: Yes.
MR. SHAUGHNESSY: The matter is approved.

We'll next go to No. 18 on the agenda. State Park Service, Block 447, parts of Lots 4 and 7, Jefferson Township, Morris County.

DEP requests approval to execute a 20-year lease agreement with Kean University on an approximately 41-acre parcel located within a property known as the Mt. Paul site.

DEP purchased the entire Mt. Paul site of over 1,100 acres in 2009 for $12 million, using Federal Forest Legacy funding for the forested land; and Green Acres funding for the approximately 41-acre leased premises containing a dormitory building, house, and minor buildings. Kean plans to expend over $14 million on upgrading the dormitory building to make it a LEED-certified green building in which to hold biodiversity and environmental educational programming and classes.
By the way, the leased premises are steeply sloped at approximately 30 degrees.

The University will be responsible for all maintenance and upkeep of the lease premises, excluding capital repairs to the dam -- which will remain the responsibility of the Department.

The Department has not been able to find any other interested parties after an RFP process and soliciting proposals from various educational entities. At the end of the lease, the Department will own the LEED-certified improvements and, during the term of the lease, the Department will not have to expend over $25,000 per year in heating and maintenance costs -- thereby avoiding spending over $500,000 during the lease term.

In addition, the Department avoids the expense of demolishing the buildings at an estimated cost of $750,000.

The Department will lease the property for the nominal amount of $20. This nominal amount is due to the DEP being unable to find entities interested in the property, the Department is avoiding maintenance and repair costs, and Kean is investing over $14 million into the property.

Kean shall also be responsible for all maintenance and repair of the leased premises during the term of the lease, which includes, but is not limited to, structural repairs and the cost of utility services.

That matter is submitted for your consideration.

Any members of the public want to be heard?

Okay, we have a couple. Please step up, one at a time, and please identify yourselves.
I know Mr. DeVito is here, and we would appreciate if you would put your comments on record. Please be succinct.

DR. DeVITO: Sure. And it could be that if I knew more information, that I wouldn’t even have any concerns. But I just -- I need to ask a couple of questions.

Emile DeVito, New Jersey Conservation Foundation. I’m also representing the Highlands Coalition, because our organization is a member of that.

There is a driveway that’s 0.77 miles long -- nearly eight-tenths of a mile -- and it’s only one lane; it’s very narrow, and the forest canopy is completely closed over that driveway. And right now it doesn’t represent any kind of fragmentation impact to the forest.

I’m concerned that if this driveway had to be expanded -- and I don’t know if the lease allows for the room for that -- but if the driveway had to be expanded, it would be an eight-tenths of a mile opening up of the canopy of this forest. And that would represent fragmentation and damage to natural resources and the forest ecosystem. So I’m just wondering if that’s anticipated? That’s a concern.

And then the other thing is that the lease is 41 acres, and I don’t understand why it needs to be so big. Because the existing area of the site, that was, I guess, some sort of a religious retreat center or something, is only about, maybe, 7 or 8 acres; and even with some of the intervening space in between the buildings, maybe about 10 acres. I don’t know if the lease includes part of the lake, but it just seems like 41 acres is awfully large, and I’m concerned that in the future there could be impacts to the forest if the project was to expand or something like that.
So I just-- If there is a way to ensure that the driveway is not going to be widened, and it might be that that can’t happen because of code restrictions or whatever it is. If you’re going to be bringing students in there, maybe it can’t be a one-lane driveway; I don’t know. So that’s a major concern.

And then, you know, what about why does it have to be about 30 acres bigger than the existing compound that’s there? It seems like it’s a lot. There’s no information to really get at the answers to those questions.

MR. SHAUGHNESSY: I don’t know if we have someone who could respond to your couple of questions. But if so, please come on up and identify yourself.

Thank you.

MARY E. MONTESCHIO, Esq.: I am Mary Monteschio with DEP.

The driveway is only about a car-width wide -- maybe a car width-and-a-half. We anticipate, for construction reasons alone, they’re going to have to take out trees. In the lease we require that they comply with our known net-loss laws and statutes and regulations. So we anticipate that, yes, they’re going to have to take some trees down in order to get construction vehicles down there, but that we’re going to demand that they replace all of the trees along the route.

As for why the property is releasing the 41 acres -- when we purchased the land, we originally only wanted the 1,100 acres of forest. The Paulus Brothers, whom we purchased the land from, insisted that we also take that center hole of 41 acres. We used Federal Forest Legacy dollars
on the forested lands, and had to use Green Acre dollars on the hole because the Federal dollars would not cover that hole in the center.

The reason why we’re doing the 41 acres is because we have all of these lovely surveys that outlined the land, and outlined the lots and the blocks for us in a very nice way and made it so easy for us to just say, “Okay, here’s your 41 acres, and the 1,100 is preserved; you can’t touch the 1,100.” So that’s why it’s 41 acres.

Will the project expand? No. In the fact sheet, I believe, we explained that the dormitory is 28,000 square feet, approximately. We anticipate that that number of square feet will remain the same. This is in the Highlands Preservation Area, and because of those water reasons, we do not expect there to be a large number of people coming to the property and using it. And there will be no reason to expand, and we would not allow expansion anyway.

MR. SHAUGHNESSY: Thank you.

Sir, do you have--

ADAM J. ZELLNER: Adam Zellner, Greener by Design. We helped in the initial design phases here. I’m just here if there are any other questions.

MR. SHAUGHNESSY: Okay.

Yes, please step up; thank you. If you could make way for Mr. Tittel.

MR. TITTEL: Thank you.

We’re not here to oppose the project, but we would like to see a limit put on clearing. A concern we have is college administrations change; and since most of the property is steep sloped and forested, there is about 7
to 10 acres around the buildings which, you know, if they need to do anything they should be able to -- they can do. But our concern is that all of a sudden somebody decides to get a brainstorm, “We’re going to create a golden warbler habitat here and knock out 10 acres here,” or do something like that. And again, even with colleges, we know that under today’s rules they can do all kinds of things on colleges. You can even have a Starbucks and a conference center, and so we would like to see -- to make sure that the lease is only for these educational purposes. We just ask that there be a limit on clearance, and I think that would help.

So maybe the 10 acres around the existing area. That would, I think, make us feel a lot more comfortable.

Thank you.

MR. SHAUGHNESSY: Thank you, Mr. Tittel.

MS. MONTESCHIO: If I may -- just to address this; Mary Monteschio.

At this point, Kean University is only in the conceptual phases. They have not conducted any design work yet. They have consulted with the Highlands Council to ensure that whatever they decide to do, they remain within their laws and regulations.

So at this point, we appreciate Mr. Tittel’s interest, and we definitely will be looking to keep the impact as minimal as possible.

Thank you.

MR. SHAUGHNESSY: Okay.

DR. DeVITO: I’d just like to revise my comments, because of the information.
As a matter of fact, New Jersey Conservation Foundation actually works in cooperation with Professor Shevitz at Kean University on ecological research. And given what we’ve heard today, we want to support the project.

I would hope that, in clearing for the construction and the driveway, that we could come up with a plan to make sure that the canopy is not opened so, in the long range, there is not forest fragmentation impact. So I’m going to assume that working with the University we would be able to deal with those issues and not end up in the kind of situation we had earlier today. And so we will support the project.

MR. SHAUGHNESSY: Thank you.

Any other comments? (no response)

If not, may I have a motion?

ASSEMBLYMAN RIBLE: Motion to move.

MR. SHAUGHNESSY: Okay; second?

SENATOR CARDINALE: Second.

MR. SHAUGHNESSY: Special Counsel Melick.

MS. MELICK: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.
MR. SHAUGHNESSY: Assemblyman Moriarty in the affirmative.

Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: That matter is approved.

That brings us to No. 19, I believe.

Project: Spicers Creek Boat Ramp, Block 753.01, part of Lot 39.05, Lower Township, Cape May County.

DEP requests approval to enter into a 20-year ground lease with New Cingular Wireless PCS, LLC at the area known as Spicers Creek Boat Ramp to place an equipment shelter and a diesel generator on the ground adjacent to an existing Atlantic City Electric, Inc. utility pole.

The ground lease will consist of a pad 18-feet by 34-feet wide and two 10-feet by 10-feet areas for the guide wires; annual rental of $700 per year with 2.5 percent annual increases. Total rent for the 20-year term will be $17,881.00.

Any public comments on this? (no response)

Any Commission members want to be heard on this?

SENATOR SMITH: Yes -- question.

MR. SHAUGHNESSY: Okay.

SENATOR SMITH: Are we getting enough money?

MR. SHAUGHNESSY: Sounds like a lot of money to me.

SENATOR SMITH: It’s $700 a month?

MR. SHAUGHNESSY: The total rent.

SENATOR SMITH: Cell towers routinely go for $2,500 a month for the rental. And as you read the comments, it says “supporting
equipment,” but it also says, “new antennas.” So what’s the story here? Are we doing any new antennas on this piece?

G E O R G E A. C H I D L E Y: No. The equipment-- Basically, it’s new technology.

George Chidley, the Office of Leases’ Acting Administrator.

Basically, what they’re doing is they’re replacing some of their equipment, and so they need additional space on the ground. So the antenna is really there already. So the enhanced antenna requires additional backup generators.

SENATOR SMITH: Okay. In the comments -- the purpose of the lease -- it says, “New Cingular Wireless PCS, LLC currently have GSM antennas and equipment of the Atlantic City Electric pole,” -- I assume that means on the Atlantic City Electric pole -- and with the change of technology they want to install new and upgraded antennas.

MR. CHIDLEY: Right. The antenna is actually on the--

SENATOR SMITH: Other property.

MR. CHIDLEY: --the lessee’s stanchion. The ground units are additional.

SENATOR SMITH: Okay. How did the rental get determined?

MR. CHIDLEY: It’s based on the State House Commission Report, 2011. It’s 15 cents a square foot; or the minimum, which this would hit, which was $700.

SENATOR SMITH: Right. My only question is, are we getting enough? The rule, roughly, is $2,500 a month for antennas. Could they build the antennas if they didn’t have this lease? Or could they
operate the antennas if they didn’t have the ground lease for the adjacent properties?

    MR. CHIDLEY: I presume if there is a will, there is a way --
that they could probably--

    SENATOR SMITH: Probably do it anyway?

    MR. CHIDLEY: --hang some of the equipment off of the
stanchion, but that’s not the best way to do it from a public safety
standpoint.

    SENATOR SMITH: Okay, got it. Thank you.

    MR. SHAUGHNESSY: Satisfied, Senator?

    SENATOR SMITH: Yes.

    MR. SHAUGHNESSY: Okay, thank you.

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

    Thank you, Mr. Chidley.

    Okay, I’ll request a motion.

    ASSEMBLYMAN RIBLE: So moved.

    MR. SHAUGHNESSY: Second?

    MS. MELICK: Second.

    MR. SHAUGHNESSY: Special Counsel Melick.

    MS. MELICK: Yes.

    MR. SHAUGHNESSY: Deputy State Treasurer Romano.

    DEPUTY STATE TREASURER ROMANO: Yes.

    MR. SHAUGHNESSY: Director Holzbaur.

    MS. HOLZBAUR: Yes.

    MR. SHAUGHNESSY: Senator Cardinale.
SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty has been marked in the affirmative.

Assemblyman Rible.

ASSEMBLYMAN RIBLE: Yes.

MR. SHAUGHNESSY: That matter is approved.

Okay, now we need a motion-- Oh, pardon me.

Okay, No. 20: Delaware & Raritan Canal State Park, also known as Cavallo Park, Block 1043, part of Lot 6, Lambertville City, Hunterdon County.

DEP requests approval to transfer a 0.97 +/- acres, a portion of Block 1043, Lot 6, to the City of Lambertville for continued use as a municipal park.

The transfer would be in fee, at no cost, subject to, number one, the imposition of a permanent conservation easement or restriction in a form acceptable to the New Jersey Economic Development Authority; and two, the inclusion of a reverter clause prohibiting the future sale or transfer of the property for non-parkland purposes.

Given the public benefits from the City’s receipt of NJEDA clean-up funds, because there was certain contamination and implementation of the redevelopment plan for the park, no additional compensation is requested for the parkland. However, to prevent the City from reaping a financing benefit from future sale or transfer of the park for
non-parkland purposes, the deed will include the reverter requiring the City to transfer the park back to the DEP, at no cost.

Do I have any discussion, or any public members want to be heard on this? (no response)

Any Commission members want to be heard on this matter? (no response)

If not, I'll then call the roll.

SENATOR SMITH: Move the matter.

MR. SHAUGHNESSY: Moved -- pardon me.

Motion.

Second?

MS. MELICK: Second.

MR. SHAUGHNESSY: Motion and second.

Special Counsel Melick.

MS. MELICK: Yes.

MR. SHAUGHNESSY: Deputy State Treasurer Romano.

DEPUTY STATE TREASURER ROMANO: Yes.

MR. SHAUGHNESSY: Director Holzbaur.

MS. HOLZBAUR: Yes.

MR. SHAUGHNESSY: Senator Cardinale.

SENATOR CARDINALE: Yes.

MR. SHAUGHNESSY: Senator Smith.

SENATOR SMITH: Yes.

MR. SHAUGHNESSY: Assemblyman Moriarty in the affirmative.

And Assemblyman Rible.
ASSEMBLYMAN RIBLE: Yes.
MR. SHAUGHNESSY: That matter is approved.
Now I need a motion to sit as the Judicial Retirement System Board.

May I have a motion?
SENATOR CARDINALE: So moved.
MR. SHAUGHNESSY: Second?
MS. MELICK: Second.
MR. SHAUGHNESSY: All in favor? (affirmative responses)
MR. SHAUGHNESSY: Any abstentions? (no response)
Okay, we’re now sitting as the Judicial Retirement System Board.

The first is the approval of the minutes of the meeting held on June 16, 2014.
Do I have a motion for that?
SENATOR SMITH: So moved.
MR. SHAUGHNESSY: Second?
MS. MELICK: Second.
MR. SHAUGHNESSY: All in favor? (affirmative responses)
MR. SHAUGHNESSY: Any opposed? (no response)
We’ll next move on to No. 2 on the Judicial Retirement System Board: Confirmation of the Death Claims, Retirements and Survivor Benefits.
Do I have a motion on that?
SENATOR CARDINALE: Move it.
MR. SHAUGHNESSY: Second?
SENATOR SMITH: Second.
MR. SHAUGHNESSY: Special Counsel Melick.
MS. MELICK: Yes.
MR. SHAUGHNESSY: Deputy State Treasurer Romano.
DEPUTY STATE TREASURER ROMANO: Yes.
MR. SHAUGHNESSY: Director Holzbaur.
MS. HOLZBAUR: Yes.
MR. SHAUGHNESSY: Senator Cardinale.
SENATOR CARDINALE: Yes.
MR. SHAUGHNESSY: Senator Smith.
SENATOR SMITH: Yes.
MR. SHAUGHNESSY: Assemblyman Rible (sic) has been noted in the affirmative.
MR. KOTLER: Assemblyman Moriarty.
MR. SHAUGHNESSY: Assemblyman Moriarty has been noted in the affirmative; pardon me. (laughter)
Assemblyman Rible.
ASSEMBLYMAN RIBLE: Yes.
MR. SHAUGHNESSY: The matter has been approved.
The last matter on the Judicial Retirement System Board is receipt of the financial statements from March 2014 to June 2014. Anyone want to be heard on that matter? (no response) Hearing none, then may I have a motion?
DEPUTY STATE TREASURER ROMANO: So moved.
MR. SHAUGHNESSY: Second?
MS. MELICK: Second.
MR. SHAUGHNESSY: Special Counsel Melick.
MS. MELICK: Yes.
MR. SHAUGHNESSY: Deputy State Treasurer Romano.
DEPUTY STATE TREASURER ROMANO: Yes.
MR. SHAUGHNESSY: Director Holzbaur.
MS. HOLZBAUR: Yes.
MR. SHAUGHNESSY: Senator Cardinale.
SENATOR CARDINALE: Yes.
MR. SHAUGHNESSY: Senator Smith.
SENATOR SMITH: Yes.
MR. SHAUGHNESSY: Assemblyman Rible.
ASSEMBLYMAN RIBLE: Yes.
MR. SHAUGHNESSY: And Assemblyman Moriarty has been noted in the affirmative.

Okay, I believe then we are going to make a motion to go back into sitting as the -- reconvene as the State House Commission.

May I have a motion?
SENATOR SMITH: Move it.
MR. SHAUGHNESSY: Second?
DEPUTY STATE TREASURER ROMANO: Second.
MR. SHAUGHNESSY: All in favor? (affirmative responses)
MR. SHAUGHNESSY: Any abstentions? (no response)
Okay, we’re sitting as the State House Commission.

If there is no other business to come before the Commission--
SENATOR SMITH: Motion to adjourn.
MR. SHAUGHNESSY: Hearing none, so moved.
DEPUTY STATE TREASURER ROMANO: Second.
MR. SHAUGHNESSY: Second.
All in favor? (affirmative responses)
MR. SHAUGHNESSY: Thank you very much. It’s 11:56; thank you for your time and efforts.
MS. MELICK: Thank you.

(MEETING CONCLUDED)