STATE OF NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS
LOCAL FINANCE BOARD

Department of Community Affairs
Conference Room #129/235A
101 South Broad Street
Trenton, New Jersey 08625
October 14, 2014

BEFORE: TOM NEFF, Chairman
DAN PALOMBI, Deputy Attorney General
PATRICIA McNAMARA, Executive Secretary
EMMA SALAY, Deputy Executive Secretary
FRANCIS BLEE, Member
IDADA RODRIGUEZ, Member
ALAN AVERY, Member

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MS. McNAMARA: We're in compliance with the Open Public Meetings Act. Notice for this meeting was sent to the Secretary of State, the Star Ledger and The Times. Roll call.

MS. McNAMARA: Mr. Neff.
MR. NEFF: Here.
MS. McNAMARA: Mr. Avery.
MS AVERY: Here.
MS. McNAMARA: Ms Rodriguez.
MS RODRIGUEZ: Here.
MS. McNAMARA: Mr. Blee.
MR. BLEE: Here.
MS. McNAMARA: Mr. Light is absent.
MR. NEFF: Okay. We're going to start with the City of Newark's budget for being under supervision. The statutory scheme for supervision requires that the City's budget be adopted by the Local Finance Board. The City introduced a budget back in I believe August and they introduced amendments I believe last week. And they advertised those amendments in the Star Ledger. We also disseminated those amendments on our web page. And this meeting will essentially be the public hearing for those amendments and the adoption of the budget itself and no further action will be needed to be taken by the governing body in Newark itself.
Before we get into swearing folks in at the table and discussing the City's budget, is there anybody here from the public who wants to testify or be heard? No.

Okay. Let me just start by noting that one of the items that the staff at DLGS is recommending change in the budget is a little bit more accurate depiction of what the structural problems are heading into 2015. The budget message that is part of the budget is required to disclose that. And it does not disclose it as perhaps as accurately as it should, I don't think by any intent. But when all the dust settled with the amendments that were made late in the process, let me just recapitulate them for folks what some of the things that were done that mean that next year the financial challenge for Newark will be what we believe to be close to $60 million in 2015, a very serious and large structural imbalance that still needs to be dealt with.

In 2014 budget there were $6 million of cancellations from 2013 appropriations that are used to balance the budget. There was a general capital surplus of $337,000. There was a sale of foreclosed property of $5 million. There's a use of car rental tax in the amount of 13,000,400. A lot of that is
surplus from prior years that carried forward that
won't be available again and there's some ticket tax
and facilities fee revenue in the amount of
$1.7 million that may not be available in 2015.

There's also in the 2014 budget there's
both the tax sale from last year and an accelerated tax
sale for 2014. So there's sort of a double -- double
use of tax sale. In 2014 that will not be available.
In 2015 we approximate that number to be $10 million.
May be higher. May be less. Transitional aid is in
this budget in the amount of $10 million which is not
expected to be a recurring funding source forever. So
in that sense that is a one shot or a declining source
of funds over time. There was a reimbursement from the
Essex county Improvement Authority in the amount of
$2 million which may not be recurring. And there was a
$1.2 million fire safety fee from prior collections
that won't be available again in 2015.

When you add all those things up, it's
almost $50 million in revenues that may not be
available again in 2015. There is also on the
appropriations side there were a number of deferrals
that were taken in 2014. And those costs will come
back again in 2015. Some of them with interest
unfortunately, but there's a $2 million deferral of
payments to the Department of Labor. In 2014 for
unemployment insurance reimbursements. And that will
be paid back over four years beginning with a $500,000
payment in 2015.

There is also a one-time reduction in an
amount of a payment to the Housing Authority that would
have paid debit services. The Housing Authority has
other sources of funds to pay that balance and that's
to the tune of about $5 million. And then there's also
consistent with our Board meeting last week, there's an
$8 million tax appeal deferral which will be paid off
over I believe five years. And that payment will be
newly included in the 2015 budget to the tune of 1.7 million
and will be continuing for I believe for five years.

So on the flip side you've got revenues
down 50 million and you're going to have appropriations
increasing in 2015 by another 10 million. So
thereabouts. So that's not even factoring in what sort
of increases in spending there will need to be to
accommodate contractual requirements with employees or
others. So we believe the structural problem heading
into 2015 is $60 million. That's still a very large
structural imbalance. Probably the largest in the
state. And it's going to require a lot of action next
year to take care of it. It's going to take a lot
action sooner rather than later to take care of it. So we just wanted to be very clear about what that problem is heading into 2015 because if there's no appreciation for what the problem is, then steps won't be taken to deal with it.

And in that same vein, and the need to get spending reductions in place for 2015, staff at the Division are recommending that in addition to the budget amendments that were adopted by City council last week, that there be four additional changes to the budget prior to being adopted. One is for there to be a further five percent reduction in the salary line item for the clerk's office, which is an approximately $3 million line item in the aggregate. But our recommendation is that it be further reduced by $174,000. $174,000. We are recommending that the council -- I'm sorry, that was for the clerk's office. For the council's office we're similarly recommending a line item reduction for council salaries, council office salaries of $170,173. And we're finally recommending that there be a further reduction of a million dollars in the healthcare line item for the City. And the reason for these reductions, I'll just briefly explain them. The clerk's office has been reported to be by way of
comparison to Jersey City and Paterson and elsewhere, highly over funded, perhaps does things that other places perhaps don't do. And there could be some efficiencies brought to that office. And the governing bodies, the councils line item has similarly reported to be sometimes as much as three times the budget of places in Jersey City, I believe that's what the Ledger reported. I know the comptroller issued a report indicating that that line item in the budget is also an outlier. And to be clear, we have council members who are entitled to I believe a salary of approximately $60,000, plus they receive longevity payments on top of that that they had earned through 2012 which, you know and I don't think there's many council members who make those sorts of salaries with longevity and they are also entitled, but not all of them receive a car and gas card and they also receive varying levels of payments in lieu of expenses which is -- can be as high as I believe north of $20,000 for the council president. And the other council members as well. And we think those levels of compensation are high. They're especially high in light of again, places like Jersey City and Paterson that have far less compensation for members who are in cities that are similar in size, a little bit smaller and have all the
same sorts of challenges that Newark has.

And so that's why those recommendations are being made by staff for further reductions. Again, it's $174,079 for the clerk's line item. In addition to the amendments that were advertised in the Ledger, and $170,173 for the council salary line item. And at the end of the day, whether the council makes those cuts by reducing or scaling back their payment in lieu of expenses or their underlying salaries, maybe they voluntarily accept some sort of furlough for themselves, in light of other employees in Newark having been laid off in the past and severe attrition in those areas, whatever that cost sharing is, the council should develop that themselves.

And on the healthcare line item, the reason for the rationale is very simple. State law passed several years ago requires all employees and officers to pay a certain amount towards their healthcare or premiums. It's based on a grid. The lower your pay, the lower percentage of your premium you're required to pay. The higher your pay, you can pay -- could be required to pay up to 35 percent of your pay -- I'm sorry. 35 percent of the premium of your health insurance if you're a higher income level in the municipality. And it's come to our attention at
the Board level that the City, for whatever reason, we're not sure why, has not been collecting those payments from anyone, whether it be the officers like the governing body or the rank and file employees and we would strongly suggest that this City needs to be beginning collecting those payments ASAP and perhaps in some circumstances, not all, perhaps in some circumstances there should be some leadership on this issue. And the payments that should have been made perhaps should be made retroactively, but that's a decision that the City will have to make and they'll have to try and live within that reduction in the healthcare line by $1 million. And the reason why it's showing as a reduction as opposed to a revenue is just because standard budgeting for all municipalities is if the appropriation for healthcare is a net appropriation of the revenues that are collected from the employees and the office holders. So it's really a revenue that will be coming into the City to offset that particular appropriation line item, but we would like to see it -- I think it's safe to say let's see the City collect the same healthcare obligations that, you know, the hundreds of thousands of public employees in the state and state employees pay. It's just not right that that's not being collected and then everyone else is
being asked to them subsidize that failure to collect
those monies.

Those are the substantive changes on the
downside to the budget. I don't know the upside.
Those decreases would be reflected as increases in the
reserve for uncollected taxes. And we're
structuring -- suggesting to structure it that way
because in the past Newark has not hit its revenue
targets in the budget. It's part what led to the
deficit in 2014.

So we're suggesting not that we
otherwise reduce the tax rate or something with those
reductions, but that we insure that we reserve for
collected taxes is at an adequate level so that there's
not another deficit in 2015.

With that, probably should have done
this first, but I guess I would ask for the folks at
the table to be sworn in and then if you have some
comments on what we've discussed or have anything to
add we'd be glad to hear from you.

(All witnesses sworn.)

MS. TATE: I'm Darlene Tate. I'm the
budget officer. I'm very clear as to what was stated
here this morning. And I'll take it back to our
governing body.
MS. SMITH: Danielle Smith, acting finance director. As Darlene Tate indicated, I'll definitely take this back to the municipal council and have this discussion.

MS. DANIELS: Keisha Daniels, personnel director, City of Newark. I, too, will speak to the leaders in the City of Newark and explain exactly what took place today.

MR. NEFF: Okay. And I think -- is there anyone at the table who could shed light to the Board on how it is that payments weren't collect at the appropriate levels or the statutory required levels for payments toward healthcare, was it just an oversight? Was it something with the payroll system? Was there a conscious decision made not to collect the revenue at some level by someone?

MS. DANIELS: Chairman, Keisha Daniels, City of Newark. I can speak to the fact that for our Horizon system where employees choose what plans they're in, that system is not married to our payroll system. So it took several months for a person to enter data into the payroll system. So there's no opportunity to do it when the legislation was passed. In 2011 we were already into our budget year when the legislation was passed. In 2012 we took
the herculean task of trying to input everyone into the payroll system because prior to that, our contracts were basically by union designation and the flat fees were collected.

In 2013 I do not know exactly why the deductions didn't kick in, but in 2014 the City moved rapidly to improvement Chapter 78 recurrently as a tier 1 deduction. And the reason why you will see 1.5 percent is because the year one calculations are not as high as 1.5. So we will definitely get up to speed with that.

MR. NEFF: So just to be clear, the law requires certain payments that get phased in over three years. You said you're in the first year phase in. I know the State's in its I believe third year and most municipalities are in their third year. And it's a requirement of law. So notwithstanding any contractual obligations that may have been entered into after the law was passed, whoever was hired after that law was passed should have been put into the fourth and highest step of making payments. Folks who were not unionized and weren't otherwise covered by a collective bargaining agreement, i.e., a lot of the management and the leadership of Newark should have been in that first year grid three years ago and they should be in the
third grid today.

So notwithstanding that Newark has taken steps to put people in the first year of the grid, they should be in the third and that's where the biggest payment obligation comes in. And it seems like there's quite a number of folks who are not paying what they statutorily should be paying.

For the record, I've now asked I think every day or every other day for the past three weeks or month, however long it is that we've known this has been going on for an accounting of every employee and officer in Newark what they have been paying towards their healthcare versus what statutorily they're supposed to be paying for their healthcare. I have yet to receive anything from the City of Newark on that score. I don't understand why it's not even known what it is that people are supposed to have paid versus what they have paid. I just -- I find that absolutely mind boggling and frustrating. Everyone in this room who receives healthcare pays by the grid. I believe, you know, the payments for people range at the upper level. They range from anywhere from 6,000 probably to 8 or 9,000 based on whether they're in the single plan or a family plan at this point if they're at the top of the scale. But if someone at the top of the scale in
Newark was making maybe let's say $100,000, they're paying $1,500. And it's not fair. And it's not reasonable. So I'm trying to keep my best poker face here and not express anger, but understand there's a real level of frustration at the division that these funds aren't being collected like the law requires and like is being required for 70,000 state employees and every other public employee around the State. It's not right. It's not fair. And that's a subsidiary that we're subsidizing that needs to be changed quickly. So I think we're going to be asking repeatedly for that information. We're not going to stop just because today's the budget adoption by the Board. We're going to continue to ask what was supposed to be paid versus what was paid. We're going to ask who was covered by union contracts, perhaps maybe they should still be at a lower grid level and who perhaps clearly could be put at a higher level immediately. If that is the appropriate statutory level that everyone else follows.

Anybody else, other comments or questions for the folks in Newark?

MR. AVERY: I just have a question so I understand on the healthcare payments. Who is making up the difference between what should be paid and what is being paid? Is that the City funds are paying that
or no one's paying that?

MR. NEFF: If I misspeak, then somebody can correct me, but it's just -- in general it's the other property taxpayers in Newark who are paying more than they should have to towards healthcare.

MR. AVERY: Because those payments should be made by the employees.

MR. NEFF: Those payments should be made by the employees.

MR. AVERY: So it isn't like City funds that have to be made. It's just getting work done so that the employee pays what the law requires.

MR. NEFF: Right. As I stated, we're not 100 percent certain how much hasn't been collected that should have been collected. That is either being subsidized by other property taxpayers in Newark or through the transitional aid that the State provided Newark earlier this year. And that's why there's a high level of frustration. We don't think that either the other property taxpayers in Newark or other State taxpayers should be subsidizing that sort of noncollection of revenues that should be occurring.

MR. AVERY: Thank you.

MR. NEFF: Any other questions?

MS. RODRIGUEZ: It's a company. I fully
understand, you know, that there's just a new administration in Newark. And all of this has come on very suddenly. And I mean I don't know how long you've been, you know, in your position, but is there a plan? Is there a plan in Newark to recoup some of these benefits? You probably don't know, but I need to ask. It would be remiss if I didn't ask.

Is there a plan in place to recoup for the employees that are still there, I imagine there's 3,000, 4,000 employees?

MS. DANIELS: Over the ten years.

MS. RODRIGUEZ: For the employees that have been there for X amount of years, is there a plan in place to try to recoup this money from them?

MS. DANIELS: I would have to look at that each bargaining unit as --

MS. RODRIGUEZ: That was my next question, yes.

MS. DANIELS: As we sit, we plan a sunset in 2017, we would be at year four.

MS. RODRIGUEZ: Right.

MS. DANIELS: But I would have to go back.

MS. RODRIGUEZ: That was my next question. You're basically dealing with unions, right?
MS. DANIELS: Yes.

MS. RODRIGUEZ: Unions in different departments and divisions.

MS. DANIELS: Okay.

MS. RODRIGUEZ: Okay. Thanks.

MR. NEFF: And to clarify on that note, for the non-union employees who wouldn't be covered by a collective bargaining agreement, there would be a lot more flexibility for the City to immediately begin collecting what is required. And potentially, and I'm not saying it should definitely be done, but to potentially collect for the amounts that weren't paid in the past that were statutorily required to be paid. So I just wanted to clarify for the record that not in all cases is there a collective bargaining agreement that would bar collection of these revenues.

MS. RODRIGUEZ: What percentage of those are non-union, would have an idea of non-union employees do you have?

MS. DANIELS: Approximately 20 percent.

MS. RODRIGUEZ: Okay. That's a start.

MR. NEFF: One other quick issue I just want to raise for the record. One of the uses of funds for the 2014 budget is car rental tax. And the car rental tax was imposed by special legislation I believe...
that passed in 2009. It raises approximately $8 million a year. And some balances had accrued in those funds. They can only be used for economic development projects.

The funds will be used in the 2014 budget for public safety expenditures that are needed to ensure that areas that are under redevelopment will actually be safe and secured and people will want to develop them, so it's being used consistent with the law. I think we all agree on that score, but those funds, then, that accrued in the balances won't be available for past commitments that Newark had made to developers who are promised some level of grant assistance for different economic development projects. And what I think we would all expect to see happen in the very near future would be for Newark to come back to the Board with a financing proposal to utilize future car rental receipts as a pledge for whatever level of bonding is necessary to make good on those economic grant commitments that were made to people who are helping to build Newark and make it prosperous. And so we would ask that Newark come back to the Board as it has in the past with a proposal to make sure that whatever commitments were made or lived up to through a financing proposal that then this Board would consider
in the near future so that no one has started a project and then finds out they're not going to receive what was committed to them as an inducement to move forward with the project.

For the record, we had received proposals in the past on that issue. And we were awaiting to deal with them until we knew how the 2014 budget played out so that we could make sure that we had enough flexibility with respect to those funds to get through what was otherwise a very difficult year.

And one final question. I know that the budget amendments that had been put forward by the City included I think some level of reductions already to the council and clerk's line items. But I believe those reductions were more -- based on just an analysis as to how much money was really needed for those account based on the current levels of compensation for the employees and the council members themselves. But I could be mistaken.

Is there anything that council or the clerk's office have done already to either reduce their salaries or their payments in lieu of expenses or to reduce their use of cars or gas cards to make up for some level of reductions there or were those purely just accounting reductions?
MS. TATE: They were basically just accounting reductions. That's it.

MR. NEFF: Okay. All right. Any other questions? Comments? Nobody from the public to be heard.

MS. RODRIGUEZ: I have a comment. You know I wish you the best and settling, you know, the finances, you know, getting them up to par. I really do.

MS. DANIELS: Thank you.

MR. NEFF: And at the division staff we do as well. We'll continue to work with the City to try and find ways to reduce expenditures, find efficiencies. Otherwise generate revenues that are available for the City, and I would note for the record the division has in the past worked with the City to try and implement the outsourcing of the collection of aged court receivables and there's I believe more than $10,000,000 in outstanding aged court fees and fines that could be collected. And it was actually a requirement of the last demo the City entered into the State that they outsource those collections and to just do it the same way that Camden has done it, Paterson has done it, Asbury Park has done it.

Every other municipality that is really
trying to get, you know, every piece of revenue that
they're entitled to already has implemented this
already. Newark's a little bit behind the ball, but I
know that most recently the council and the current
Mayor have started to move on that initiative which
should help, probably not until the 2015 but it will
help. And there are other initiatives that the
division has worked with in Newark in the past. We've
helped them and encouraged them to outsource or
otherwise competitively bid for their energy prices so
that they can reduce those line items and they've done
that, but there's still quite a ways to go and the
Division will always be willing to try and help the
City in constructive ways to keep the costs down to the
extent that we can. And to otherwise encourage the
revenues to grow in appropriate ways.

With that, I guess I would make the
motion to adopt a budget for the City of Newark that
reflects the amendments that were advertised by the
City and by us as well on our website, but also
including the items that were discussed earlier on the
record. And that also, any transfers that are done
within the City by the end of the year would require
the Board's approval so that we have some level of
assurance that the budget that is ultimately finalized
through transfers reflects what was voted on here today.

MR. BLEE: Second.

MR. NEFF: Roll call.

MS. McNAMARA: Mr. Neff.

MR. NEFF: Yes.

MS. McNAMARA: Mr. Avery.

MR. AVERY: Yes.

MS. McNAMARA: Ms. Rodriguez.

MS. RODRIGUEZ: Yes.

MS. McNAMARA: Mr. Blee.

MR. BLEE: Yes.

MR. NEFF: Thank you.

Next up we have remaining item for North Wildwood.

MR. JESSUP: Good morning. Matthew Jessup, bond council to City of North Wildwood. To my right Todd Burkey, chief financial officer of the City of North Wildwood.

This is an application in the amount of $900,000 to finance an emergency temporary appropriation over a two-year period. I'll get into the details in a moment, but the emergency temporary appropriation resulted from a court ordered requirement to repay a lienholder in connection with an invalidated
or still contested city lien. And again, we'll dive into that in a minute.

The financing over a two-year period would result in a tax impact of $52 to the average homeowner. A financing obviously over a one-year period, if all of it had to go into next year's budget, it would be approximately $115 in next year's budget.

Essentially how the City got here, there were liens for failure by a property owner to pay taxes, sewer charges and PILOT payments. Those liens went through the normal tax sale law process in 2006. And in 2007 the municipality had a lien on the property as a result. And the City sold those liens in its normal annual city tax lien sale.

One important point is that the property owner in 2006 prior to the first lien sale, the property owner challenged in court the City's ability to include the lien in the sale and the court at that time ruled in favor of the City and allowed the City to move forward with the -- with its lien sale. That actually deferred the '06 sale to close from December 1 think into January of '07 which is why the first lien you have is probably the application is technically dated January 2007.

So those liens were sold in 2007 and
2008 to the same purchaser of those liens. Subsequent
to that sale, the underlying property owner brought
another lawsuit in court challenging the computation of
taxes and the application of the land tax credit.
Recall that in connection with PILOT payments you
typically get a land tax credit for the amount of land
taxes actually paid. The property owner brought a law
lawsuit in connection with those two items and
essentially what the Court did was said look, we have
to resolve that dispute between the underlying property
owner and the City, but in the meantime, we have a
lienholder who validly paid what he thought was to buy
a valid lien. We want to remove him from the equation,
let's make him whole. Get him out of the process and
then resolve the underlying dispute between the City
and the property owner. So the Court ordered the City
to repay to the original purchaser to make them whole
the balance of the initial purchase plus that property
owner had bought subsequent, they had kept the taxes
paid, plus interest, et cetera. The court told the
City to pay that amount back to the lienholder, make
him whole and get him out of the way. That was the
$850,000 approximately that the City declared an
emergency temporary appropriation for earlier this year
and funded to the lienholder in accordance with the
The City and the property owner are still in the middle of the judicial process as to the underlying disputes regarding, again, the computation of taxes and the application of the land tax credit. The court had originally determined that land tax credits had to be applied in a certain way. They asked the City to recompute. The City did that, but at the same time the City is appealing that ruling for a variety of legal arguments that have not yet, you know, seen a full adjudication.

So again, in the meantime, the City was required to repay the purchaser of the lien in full resulting in the roughly $850,000 amount that was paid through an emergency temporary appropriation. And under the refunding section of the local bond law, the City is looking to finance that over a two-year period, $52 a year to repay that amount.

MR. NEFF: So when the temporary emergency appropriation was passed, the budget that was adopted by Wildwood earliest this year didn't have any payment towards that.

MR. BURKEY: We were in the process of the -- this is North Wildwood, not Wildwood.

MR. NEFF: I'm sorry.
MR. BURKEY: We had already introduced the budget at that time and it was going to become adopted like the next week after that temporary appropriation. Our budget process was already completed when this came about, that's why it was a temporary though because the budget wasn't adopted yet. It was already introduced.

MR. NEFF: So the municipality was aware that they had this expense and then ultimately adopted a budget without covering the temporary. I'm not trying to be flippin, but on sort of this belief that this Board would just rubber stamp a request to finance the temporary appropriation with the first payment of 2015.

MR. JESSUP: I don't know that that was reason for it. I don't know that it wasn't just a procedural misunderstanding.

MR. NEFF: Well, it was known, right?

MR. BURKEY: No, it wasn't known in introduction. It was only known after introduction. It wasn't known when we introduced the budget.

MR. NEFF: Right. Before you adopted the budget there was a known liability that then wasn't covered in the budget that was adopted.

MR. JESSUP: Yes, Tom, absolutely. And
I wasn't trying to challenge that the City knew it. I was saying that I don't know what the City's mindset was. We just know that we will get this covered at the Local Finance Board. I believe it was more a product of -- the tax assessor identified, look, if we do it this way, we need to adopt a bond ordinance and I think there was a procedural misstep somewhere where the bond ordinance which is we here in the room know should have been adopted prior to final adoption of the bond ordinance -- prior to final adoption of the budget, excuse me. Was not, in fact, adopted. It was introduced after the fact. I was only saying I don't know that it was -- with the cavalier understanding that you would approve the application. 

MR. NEFF: I believe that the -- our staff had requested more detailed breakdown of what this $843,000 payment was for. I think our understanding was that the underlying property lien was $150,000. Is that right?

MR. JESSUP: I think 115,000.

MR. NEFF: Oh, 115,000.

MR. JESSUP: I think through a supplemental submission I believe the City did provide the two tax sale certificates that add up in the aggregate to approximately 115,000. Again, this goes
back to 2006, really and 2007. The purchaser of the
lean in order to protect their priority then buys or
pays the subsequent real estate taxes.

So the total amount that the court
adjudicated needs to be returned to the lienholder is
not just 115,000 from the original tax sale
certificates in '06 -- '07 and '08, but were -- include
all of the subsequent payment that that lienholder has
made in order to protect his interest in the lien.

Obviously with the understanding that once the
adjudication of the underlying matter is settled, there
is an amount of money -- remember, in all this time the
property owner has still not paid taxes, right, so in
the end the property owner is going to have some form
of taxes that it will have to make up for going back to
that '06 and '07 date. The court didn't want the
lienholder to be waiting for that, so they wanted the
City to pay them off, basically front that money, let
the underlying matter adjudicate itself and see how
much money through that process the City collects for
the taxes over all those years.

MS. RODRIGUEZ: I have a comment. So
the lienholder has the lien on this property since
2006. Doesn't do anything in terms of trying to take
over this property?
MR. BURKEY: They were trying to
foreclose.

MS. RODRIGUEZ: So they weren't able to
foreclose, keeps paying the taxes -- a certificate of
$115,000 is now up to $850,000.

MR. JESSUP: Yes, because for the
last --

MS. RODRIGUEZ: Okay. So it's a good
deal for the lienholder and what bothers me is that now
the taxpayers of North Wildwood are going to have to
pay for a deal gone bad and an investor is going to
make a lot of money. I mean that probably has nothing
to do with this, but in my mind I just can't --

MR. NEFF: It has everything to do with
it.

MS. RODRIGUEZ: In my mind I really
can't fathom that. You know I've seen these deals
before. Why they weren't able to foreclose after 18 or
24 months is -- I don't know, it's mind boggling to me
and the fact that the taxpayers are going to have to
pay for this for the City and the Court to rule that
way is mind boggling and bothersome to me.

MR. NEFF: What was the underlying claim
of the people who say the lien wasn't sold
appropriately in the first place? I don't think we've

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seen any of the underlying litigation documents. What was the issue?

MR. BURKEY: Originally they were saying that for the 2006 one they said that we can't sell the PILOT is what they were saying because it didn't state in the PILOT agreement that it was eligible for tax sale. Obviously our agreement was it's a municipal charge, a payment in lieu of taxes and the Court originally upheld that and let us go ahead and sell it. But then this new lawsuit that came into the land tax credit, that happened just last year. They had never brought that argument up prior to all of our, you know, all of the court appearances and everything we've had prior to this and then that came up last year. They started to argue that.

We had one judge already earlier in 2013 rule in our favor. And set out the amounts and then another judge, Judge Batton, after Judge Gibbon had already ruled in our favor, then they went in front of Judge Batton and then this came, this was the first time -- to be honest, first time we had ever really lost in court against them for all the years that we had been selling the liens and so forth and we had sold originally prior to that that say redeemed at one point in 2005. So we were successful the first time in
selling the lien and getting a redemption and having them pay it off. And, you know, so we went ahead and sold it again.

MR. NEFF: So the $843,000, again, it's 115,000 for the underlying original lien?

MR. BURKEY: Correct.

MR. NEFF: How much of that 843 is attributable to interest? I mean there's some 18 percent.

MR. BURKEY: Yeah, it's a little difficult to say with the lienholder because what happens is the lienholder gets it and we had to pay the lienholder payments and legal interest. So we had to pay the interest that the lienholder had paid us, the 18 that we had taken in as interest revenue. We had to put all that back, plus legal interest on top, which the legal interest wasn't much.

MR. NEFF: But the 18 percent on the original lien, that's 18 percent compounded ever year on the 115?

MR. BURKEY: Yeah, it's 18 percent and then it's also 18 percent on all the subsequent payments that they made since then. And again, our argument is we're still owed that money because now the lienholder has been given it back where they paid us
that amount. We're still contesting that we're still
owed all of the interest once we figure out the
charges, you still owe us 18 percent or whatever the
charges are.

MS. RODRIGUEZ: So 18 on the original
115 and then every year that they pay the taxes 18 on
top to have that, too?

MR. BURKEY: Correct.

MR. JESSUP: For the lienholder --

MS. RODRIGUEZ: For the lienholder?

MR. BURKEY: Absolutely, and they got
all of that back. Exactly.

As Tom was mentioning, the point is that
once the underlying dispute is resolved, the property
owner who has not paid taxes will not only owe the City
taxes, but he will owe the City the 18 percent as well
that comes --

MS. RODRIGUEZ: Taxpayers will never see
that money. I'm not trying to be -- I'm just --

MR. AVERY: If he doesn't pay his taxes.

He's not going to pay his taxes plus 18 percent.

MR. NEFF: Right.

MR. JESSUP: It's the property owner
that they're struggling with.

MR. NEFF: How much has the City on
MR. BURKEY: We had used our city solicitor until this came about. So we had like incorporated with our normal, you know, legal fees that we pay each year, but now that's why it's 900,000 now and not 850 because we had to bring in somebody that specializes in those areas. Now we're concerned for the taxpayers that now that all of a sudden we've been ruled against, we wanted to bring somebody that's more of an expert in that type of, you know, legal argument.

MR. JESSUP: We're not involved in the underlying dispute, but my understanding part of what the Court determined was that the land tax credit can be applied against the PILOT payment, notwithstanding that the land taxes have not actually been paid.

Again, I'm sure his or her Honor had a good reason for saying that, but section 20 of the long-term tax exemption law states pretty clearly that you get a credit for amounts paid in the prior four quarters. That's part of what my understanding that the City is appealing.

So a judge -- after a judge ruled in the City's favor, a second judge said you should get a credit land taxes, even though the property owner has not paid those land taxes and my guess is the City is
going to argue pretty strongly that section 20 of the long-term exemption law on appeal has fairly black and white language in one sentence that says that you only get a credit for the amount actually paid in the prior four quarters.

MS. RODRIGUEZ: What is the use of this property if I may ask?

MR. BURKEY: It's a senior citizen home.

MR. NEFF: Unless there's more discussion on this, I think our recommendation would be to put this on a consent agenda for our next meeting and not have further discussion about it. But one of the things we would like to do at the staff level is better understand a breakdown of this 843. I'm not so sure I can account for all 843 of it. I'm just not comfortable with the number. And we can get to that comfort level, I would hope between now and the next meeting, but we had asked for a breakdown of specifically what was the 843 like by year, what's the underlying lien? How much of this was the interest of the 18 percent that's going to MD Sass (sic) or whoever owns this lien. And, you know, what the -- there's legal fees in this, what's the legal fee that's in here and just a much more clean and thorough breakdown with this number is all about.
MR. JESSUP: And we can provide that in time -- certainly in plenty of time next week.

MR. NEFF: Unless something strange comes up, you know, that requires some additional testimony before the Board, we would just hear it as a consent item in between now and then if we have more questions, we will ask you at the staff level if that makes sense.

MR. JESSUP: Yeah.

MR. NEFF: Let me just ask, too, is there a clock ticking? You've already paid, right?

MR. JESSUP: Yes.

MR. NEFF: Through the temporary emergency so, it's not as though the 18 percent is still ticking here if you wait.

MR. JESSUP: Right. No. I think the only issue and it would be in plenty of time for next month is to finally adopt a refunded bond ordinance, allow the 20-day process to play out and I imagine the City would want to fund the notes before the close of the fiscal year so that the money would be accounted for but we can do that by November.

MR. NEFF: Just one more question, I think my understanding was that there's something like a million and change of surplus for North Wildwood and
why wasn't the surplus used to just pay this as opposed
to doing a temporary emergency or at least something
paying this down? It looked to us like there was some
room in the budget out of surplus to pay something
toward this issuance as opposed to just borrowing for
the whole thing.

MR. JESSUP: One comment. In July --

MR. NEFF: Obviously needs to come from
North Wildwood, but --

MR. JESSUP: Right, but if I can just real
briefly. In July the City was upgraded from A minus -- from
A plus to double A minus by the rating agency. They
commented on two things; one, strong budgetary flexibility;
and two, very strong liquidity. Both of which come from
their surplus position. They also said that if those amount
remain in place and the county employment goes up or goes
down which obviously the City can't control, they look at an
that additional upgrade.

MR. NEFF: This is Moody's?

MR. JESSUP: This is Standard and
Poor's. I can't speak to what S&P will do, but I can
certainly speak to the fact that an A rating versus a
double A rating in the market are dramatic. So I do
know that the City would certainly have a financial
interest vis-à-vis its bond rate and interest rates to
try and maintain that double A minus which is the
lowest of that double A category.

MR. BURKEY: And as he said, like we do
try to maintain a certain amount of surplus for those
reasons. And because you never know what's going to
happen. If something does happen and we do have to pay
it within the year, I mean you are right, we would be
able to do that if you did not rule in our favor. But
you know as a financial -- like it's in our favor to
try to get it divided over two years for the taxpayers
and maintain that surplus that we have.

MR. NEFF: I understand. I think
reasonable people could disagree with that, whether
this is one of those events that then you use your
surplus for. I appreciate it.

Okay. All right. Why don't we just
defer this until our next meeting and let us get a
little bit better information about what the breakdown
is for the amount being borrowed here.

MR. JESSUP: Thank you.

MR. NEFF: Thanks.

Motion to adjourn.

MR. BLEE: Second.

MS. McNAMARA: All ayes.

(Whereupon the matter is adjourned at 10:35 a.m.)
CERTIFICATE

I, CARMEN WOLFE, a Certified Court Reporter and Registered Professional Reporter and Notary Public of the State of New Jersey hereby certify the foregoing to be a true and accurate transcript of the proceedings as taken stenographically by me on the date and place hereinbefore set forth.

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CARMEN WOLFE, C.C.R., R.P.R.

Dated: October 31, 2014
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Notary Commission Expiration Date: July 29, 2016

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