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STATE OF NEW JERSEY
DEPARTMENT OF COMMUNITY AFFAIRS

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IN RE :
Local Finance Board :
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Location: Department of Community Affairs
101 South Broad Street
Trenton, New Jersey 08625
Date: Wednesday, April 13, 2016
Commencing At: 10:27 a.m.

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1 HELD BEFORE:

2

3 TIMOTHY J. CUNNINGHAM, Chairman

4 TED LIGHT

5 ALAN AVERY

6 FRANCIS BLEE

7 IDIDA RODRIGUEZ

8

9 A L S O P R E S E N T:

10

11 MELANIE WALTER, DAG

12 SUSAN SCOTT, DAG

13 PATRICIA PARKIN MCNAMARA, Executive Secretary

14 EMMA SALAY, Deputy Executive Secretary

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1 MR. CUNNINGHAM: With a quorum
2 present, we're going to begin the financing
3 portion of this morning's agenda. The meeting,
4 previously being open to the public in a prior
5 session upstairs, we can dispatch of those
6 formalities and move right into the agenda
7 itself. The first four applications listed on
8 the agenda are all being considered on consent.

9 They involve refundings from the
10 Hudson County Improvement Authority, the
11 Burlington Bridge Commission, the Morris County
12 Improvement Authority and the Union County
13 Improvement Authority. In all instances, the
14 applications will provide at least a three
15 percent savings or they will not proceed. They
16 all have level debt service and they are not
17 extending any maturities.

18 I also note that the savings in this
19 financing market are relatively substantial,
20 7.3 percent, seven and three quarters percent,
21 nearly six percent and nearly 10 percent, so I
22 think these applications on consent are rather
23 prudent, and I would ask my colleagues for a
24 motion and second to move them forward.

25 MR. AVERY: So moved.

1 MR. LIGHT: Second.

2 MR. CUNNINGHAM: Mr. Avery moves.

3 Mr. Light seconds. Roll call, please, Pat.

4 MS. MCNAMARA: Mr. Cunningham?

5 MR. CUNNINGHAM: Yes.

6 MS. MCNAMARA: Mr. Avery?

7 MR. AVERY: Yes.

8 MS. MCNAMARA: Mr. Light?

9 MR. LIGHT: Yes.

10 MR. CUNNINGHAM: The next matter
11 also listed on consent is a proposed project
12 financing in the amount of \$3,500,000 from the
13 Voorhees County Fire District Number Three.
14 These are refunding bonds that would achieve a
15 savings of nearly 10 percent and an amount of
16 nearly \$300,000, so once again, this was reviewed
17 by staff and certainly seems prudent. We agree
18 to handle on consent, so I would ask for a motion
19 and a second from my colleagues.

20 MR. LIGHT: So moved.

21 MR. CUNNINGHAM: Mr. Light moves.

22 MR. BLEE: Second.

23 MR. CUNNINGHAM: Mr. Blee, second.

24 Roll call, please, Pat.

25 MS. MCNAMARA: Mr. Cunningham?

1 MR. CUNNINGHAM: Yes.

2 MS. MCNAMARA: Mr. Avery?

3 MR. AVERY: Yes.

4 MS. MCNAMARA: Ms. Rodriguez?

5 MS. RODRIGUEZ: Yes.

6 MS. MCNAMARA: Mr. Blee?

7 MR. BLEE: Yes.

8 MS. MCNAMARA: Mr. Light?

9 MR. LIGHT: Yes.

10 MR. CUNNINGHAM: Okay. The first
11 matter before the Board, East Brunswick Township
12 Fire District Number Three.

13 (At which time the witnesses were sworn.)

14 MR. CUNNINGHAM: Mr. Neely, welcome.
15 Good to see you.

16 MR. NEELY: Thank you. Good to see
17 you.

18 MR. CUNNINGHAM: Do you briefly want
19 to introduce the application to the Board?

20 MR. NEELY: I'm sorry? Say again.

21 MR. CUNNINGHAM: Do you briefly want
22 to just explain the application to the Board?

23 MR. NEELY: The application is a
24 shared service agreement with Fire District Three
25 to allow the Township to use their financing to

1 purchase, at least cost, the apparatus the fire
2 district is seeking. Six years ago you approved
3 a truck. They paid it down. The final truck was
4 paid this year. This is part of their routine,
5 so it will have no impact on their tax rate
6 because it would simply be another five years to
7 pay for this truck.

8 Our financing, for the last five
9 years, have been one half of one percent. I
10 don't think you have a fire district in here
11 that's paying that low for cost. The application
12 says we may go as high as one percent, and the
13 matter will be paid down in five years through a
14 shared service agreement, and your approval is
15 required, and recommendation, so they can include
16 it in their budget.

17 MR. CUNNINGHAM: Thank you very
18 much. The trucks being purchased, as so many
19 are, are used in Galveston Area Co-op. However,
20 this is being financed through bonds as opposed
21 to the recent preferred financing mechanism that
22 the Galveston issues.

23 MR. NEELY: We'll be using notes.
24 We will pay it down in five years by rolling
25 notes. We won't have the cost of a bond issue.

1 MR. CUNNINGHAM: Now, I know that we
2 were looking for -- we had been looking for, at
3 the time, at least the time I reviewed it, we
4 were looking for an amortization schedule and a
5 vote count. Has that been provided?

6 MR. NEELY: That has been. An
7 amortization schedule simply depends on what the
8 market is. We're going to sell notes. We have
9 years of history of selling it at a very low
10 price, so it's just a wish list.

11 MR. CUNNINGHAM: And then the other
12 thing I just wanted to discuss was the fact that,
13 for this particular application, the township is
14 looking for a waiver of down payment for just --

15 MR. NEELY: The fire district is
16 looking for a waiver of down payment and they'll
17 have level principal payments of five years, so
18 it's the township is seeking on the bond
19 ordinance. No down payment for this portion of
20 the bond ordinance.

21 MR. CUNNINGHAM: Yes. Okay. Thank
22 you. That was the point I wanted to make. Any
23 questions from the board members?

24 MR. LIGHT: No.

25 MR. CUNNINGHAM: Then if there's no

1 questions, I would ask for a motion and a second.

2 MR. BLEE: Motion.

3 MR. CUNNINGHAM: Motion from Mr.

4 Blee.

5 MR. LIGHT: I'll second.

6 MR. CUNNINGHAM: Mr. Light seconds.

7 Roll call, please.

8 MR. CUNNINGHAM: Yes.

9 MS. MCNAMARA: Mr. Avery?

10 MR. AVERY: Yes.

11 MS. MCNAMARA: Ms. Rodriguez?

12 MS. RODRIGUEZ: Yes.

13 MS. MCNAMARA: Mr. Blee?

14 MR. BLEE: Yes.

15 MS. MCNAMARA: Mr. Light?

16 MR. LIGHT: Yes.

17 MR. NEELY: Thank you.

18 MR. CUNNINGHAM: Thank you.

19 Chesterfield Township.

20 (At which time the witnesses were sworn in.)

21 MR. CUNNINGHAM: Good morning.

22 MR. MALEY: Good morning. I'm John

23 Maley, Auditor for the District.

24 MS. WULSTEIN: Wendy Wulstein, Chief

25 Financial Officer.

1 MR. CUNNINGHAM: Thank you for your
2 appearance. As we've seen before with the
3 Township of Chesterfield, the increased
4 development of the township has created some
5 budget issues, from a statutory perspective, not
6 from a dollar and cents perspective necessarily,
7 but you're before the Board today looking for an
8 appropriation CAP waiver to use surplus?

9 MR. MALEY: That's correct.

10 MR. CUNNINGHAM: I know it's in our
11 report, but I think to memorialize on the record,
12 would you just explain a little bit what the
13 surplus would be used toward?

14 MR. MALEY: We have appropriated
15 some \$671,000 of surplus outside of the
16 appropriation CAP to fund police salaries and
17 ambulance service. Of course, without that
18 surplus, we've had a tough time doing that, and
19 that's what we're planning to use it for.

20 MR. CUNNINGHAM: And the Board
21 should not be concerned that the township is
22 utilizing all of its surplus because you're still
23 going to have some left in the future permit fees
24 and such, and frankly, the future tax revenues
25 from the development going on in the township,

1 would ostensibly replenish the surplus or
2 continue the surplus at a healthy level.

3 MR. MALEY: That's true. We're
4 using 1.3 of 2.6 to balance this year's budget,
5 and we expect to return much of that in 2017.

6 MR. CUNNINGHAM: Okay. And the
7 township remains within the levy CAP?

8 MR. MALEY: Yes.

9 MR. CUNNINGHAM: Any questions from
10 the Board?

11 MR. LIGHT: I'll move the
12 application.

13 MR. CUNNINGHAM: Mr. Light moves.

14 MS. RODRIGUEZ: I'll second.

15 MR. CUNNINGHAM: Ms. Rodriguez
16 seconds. Roll call, please.

17 MS. MCNAMARA: Mr. Cunningham?

18 MR. CUNNINGHAM: Yes.

19 MS. MCNAMARA: Mr. Avery?

20 MR. AVERY: Yes.

21 MS. MCNAMARA: Ms. Rodriguez?

22 MS. RODRIGUEZ: Yes.

23 MS. MCNAMARA: Mr. Blee?

24 MR. BLEE: Yes.

25 MS. MCNAMARA: Mr. Light?

1 MR. LIGHT: Yes.

2 MR. MALEY: Thank you.

3 MS. WULSTEIN: Thank you.

4 MR. CUNNINGHAM: Borough of Fort
5 Lee.

6 (At which time the witnesses were sworn in.)

7 MR. CUNNINGHAM: Good morning,
8 gentlemen.

9 MR. LANGHART: Good morning. Chris
10 Langhart, McManimon, Scotland and Baumann, Bond
11 Counsel to the Borough. I have to my right,
12 Chuck Ferraioli, Auditor for the Borough, and the
13 Chief Financial Officer, Matt Rutch, on behalf of
14 the Borough.

15 MR. CUNNINGHAM: Welcome and thank
16 you for your appearance. So the borough is
17 looking to issue refunding bonds for purposes of
18 tax appeals?

19 MR. LANGHART: Yes. We're looking
20 for approval of a Refunding Bond Ordinance so we
21 can finance a pay to settle tax appeals over a
22 period of three years on behalf of the Borough.
23 Happy to answer any questions.

24 MR. CUNNINGHAM: It was how many
25 settlements?

1 MR. LANGHART: Two.

2 MR. CUNNINGHAM: Two properties, but
3 11 total settlements?

4 MR. LANGHART: It was -- my
5 understanding it was the two for Fort Lee
6 Executive Park and 2200 Flex Avenue. Am I right
7 about that?

8 MR. CUNNINGHAM: But they cover
9 multiple units?

10 MR. LANGHART: Yes.

11 MR. CUNNINGHAM: The one question I
12 had is you still have, not a large amount. You
13 still have a fair number of appeals still
14 pending?

15 MR. FERRAIOLI: Yes.

16 MR. CUNNINGHAM: And I'm curious
17 whether the borough is starting to take any
18 action, from a budget standpoint, to start to
19 prepare for that.

20 MR. FERRAIOLI: We're here with this
21 application because I don't know where everybody
22 is from, but if you've been over the George
23 Washington Bridge in the last year or so, you'll
24 see a large tower overlooking the bridge. That
25 tower will be fully on the books this year along

1 with a hotel and a mall, so what we're looking to
2 do is to move everything to 2017. We're going to
3 have a large increase in the rateables and we'll
4 be able to -- traditionally, we've been doing pay
5 as you go taxes, but we're going to start
6 budgeting for that going forward.

7 MR. CUNNINGHAM: That was my
8 question. Thank you very much. So as we
9 commonly see with these applications, there's a
10 range of duration, and the recommendation in
11 front of the Board today is for a three year
12 term, and that would result in the impact on the
13 average assessed home of \$54.

14 MR. FERRAIOLI: Correct.

15 MR. CUNNINGHAM: The Board has, as a
16 policy, to try to keep everything around the \$50
17 mark. This certainly comports with that. I note
18 that the borough has very low debt. I think the
19 auditors discussed the borough's future ability
20 to kind of, you know, set money aside in the
21 budget for that, so I have no further questions
22 on the application, and ask my colleagues if
23 there was any questions that they may have.

24 MR. LIGHT: No questions. You asked
25 if we were familiar with the George Washington

1 Bridge. Three years ago I spent three and-a-half
2 hours on the George Washington Bridge. I'll make
3 a motion to approve the application.

4 MR. CUNNINGHAM: Mr. Light moves.

5 MR. BLEE: Second.

6 MR. CUNNINGHAM: Mr. Blee seconds.

7 Roll call, please.

8 MS. MCNAMARA: Mr. Cunningham?

9 MR. CUNNINGHAM: Yes.

10 MS. MCNAMARA: Mr. Avery?

11 MR. AVERY: Yes.

12 MS. MCNAMARA: Ms. Rodriguez?

13 MS. RODRIGUEZ: Yes.

14 MS. MCNAMARA: Mr. Blee?

15 MR. BLEE: Yes.

16 MS. MCNAMARA: Mr. Light?

17 MR. LIGHT: Yes.

18 MR. FERRAIOLI: Thank you very much.

19 MR. CUNNINGHAM: Thank you,

20 gentlemen. Next matter before the Board is the

21 Morris County Improvement Authority.

22 (At which time the witnesses were sworn.)

23 MS. EDWARDS: Good morning. The

24 Morris County Improvement Authority is here

25 requesting an extension, a one year extension of

1 their county guarantee leasing program, which was
2 created in 2004, to offer local units and the
3 county the ability to finance capital equipment.
4 The application is to approve the one year
5 extension until July 2017. The current program
6 is offered at not to exceed 30 million, and we
7 can take any questions regarding the program
8 itself.

9 MR. CUNNINGHAM: No questions on the
10 program per se, and I didn't have a chance to
11 talk to you prior to today's meeting. One of the
12 things that we were going to ask of you is next
13 time we go to renew this, instead of a letter
14 application, if we could do a fuller application.

15 MS. EDWARDS: Sure.

16 MR. CUNNINGHAM: And the reason for
17 that is staff is just having a little bit of
18 trouble kind of tying everything together.

19 MS. EDWARDS: Okay.

20 MR. CUNNINGHAM: As we've done
21 letter applications for some time now, so it
22 would be good next time just to have a full new
23 application.

24 MS. EDWARDS: Yeah, that's fine.

25 MR. CUNNINGHAM: It would just be

1 helpful for us as we review. I don't think that
2 staff, and I don't want to speak for the Board,
3 but Morris is a Triple A rating. It's certainly
4 advantageous for participants, so I don't think
5 that there's an issue, at least not from my
6 perspective, in extending it, but I want to put a
7 couple things on the record that I think should
8 be noted.

9 I guess probably been in existence
10 for 12 years now and have done, you know, nearly
11 50 million in capital lease. No defaults by any
12 participant, certainly not even close, so I think
13 it's a prudent program and advantageous for the
14 participants. Any questions from the Board
15 members, please? Hearing none, I'd ask for a
16 motion and second.

17 MR. BLEE: Motion.

18 MS. RODRIGUEZ: Second.

19 MR. CUNNINGHAM: Mr. Blee moves.
20 Ms. Rodriguez seconds. Roll call, please, Pat.

21 MS. MCNAMARA: Mr. Cunningham?

22 MR. CUNNINGHAM: Yes.

23 MS. MCNAMARA: Mr. Avery?

24 MR. AVERY: Yes.

25 MS. MCNAMARA: Ms. Rodriguez?

1 MS. RODRIGUEZ: Yes.

2 MS. MCNAMARA: Mr. Blee?

3 MR. BLEE: Yes.

4 MS. MCNAMARA: Mr. Light?

5 MR. LIGHT: Yes.

6 MS. EDWARDS: Thank you.

7 MR. CUNNINGHAM: Thank you very
8 much. Camden County Improvement Authority.

9 (At which time the witnesses were sworn.)

10 MR. CUNNINGHAM: Good morning.

11 MR. WINITSKY: Good morning.

12 MR. CUNNINGHAM: Jeff, do you want
13 to introduce the application?

14 MR. WINITSKY: Sure. Briefly, to my
15 right, Josh Nyikita, Financial Advisor to the
16 Township. Jim Blanda, Executive Director of
17 Camden County Improvement Authority. To his
18 right, Susan Danson who is the Township
19 Administrator for Waterford Township. We're here
20 today seeking approval, pursuant to 40A:5A-6, not
21 to exceed 3.75 million dollars of revenue bonds
22 of the Improvement Authority, on behalf of the
23 Township of Waterford, for the development and
24 construction of an approximately 11,000 square
25 foot public safety building.

1 Bonds will be secured by loan
2 payments to be received from the township, in
3 accordance with the loan and security agreement
4 which is included in our loan application. The
5 loan obligations are being authorized pursuant to
6 an ordinance and will constitute general
7 obligation debt of the township and will go
8 against the debt statement, although they're well
9 within their debt capacity limits, so no issue
10 there.

11 The township is utilizing the
12 Improvement Authority really for efficiencies,
13 and the Improvement Authority very often does
14 these kinds of projects as construction manager,
15 project developer and also issues bonds as part
16 of that process, sort of one stop shopping at the
17 end of the day. The bonds are structured to
18 provide level debt service through their entirety
19 from 2017 to 2041.

20 The Authority expects to issue the
21 bonds in a negotiated basis, but we're actually
22 talking about maybe doing a private placement.
23 There is some efficiencies there, save some money
24 if we can, and we're here to answer any
25 additional questions you may have.

1 MR. CUNNINGHAM: I think the primary
2 question I would like, and I will direct it to
3 the township, at least put it on the record. Can
4 you talk a little bit of the municipality's need
5 for the public safety building in terms of what's
6 currently available for that need, how old it is
7 and what the decision making process was to
8 undertake its acquisition and construction?

9 MS. DANSON: The current facility
10 that our fire department and our public safety
11 building was built back in 1920. There is a lot
12 of deterioration. There is a structural issue
13 that we have right now that we have, plus our
14 departments have been growing at leaps and
15 bounds, so there is a need to provide the
16 services to the municipality as far as our
17 residents, and that's really where the majority
18 of the decision is made, based on the fact that
19 there is a deteriorating building and the need
20 with our community growing as it is.

21 MR. CUNNINGHAM: Thank you very
22 much. I know, Counsel, you mentioned, but I'll
23 just put it on the record nonetheless, so the
24 debt percentage of the township is currently just
25 over one percent. It would climb to just under

1 one and-a-half percent?

2 MR. WINITSKY: Correct.

3 MR. CUNNINGHAM: As you said, well
4 within the debt limitations. And the potential
5 impact on the tax rate as the numbers are right
6 now, .0315?

7 MR. WINITSKY: Correct.

8 MR. CUNNINGHAM: I didn't have any
9 other questions with this application. Any
10 questions from Board members?

11 MS. RODRIGUEZ: I'll move it.

12 MR. CUNNINGHAM: Ms. Rodriguez
13 moves.

14 MR. BLEE: Second.

15 MR. CUNNINGHAM: Mr. Blee seconds.
16 Roll call, please.

17 MS. MCNAMARA: Mr. Cunningham?

18 MR. CUNNINGHAM: Yes.

19 MS. MCNAMARA: Mr. Avery?

20 MR. AVERY: Yes.

21 MS. MCNAMARA: Ms. Rodriguez?

22 MS. RODRIGUEZ: Yes.

23 MS. MCNAMARA: Mr. Blee?

24 MR. BLEE: Yes.

25 MS. MCNAMARA: Mr. Light?

1 MR. LIGHT: Yes.

2 MR. WINITSKY: Thank you.

3 MR. CUNNINGHAM: Thank you. Borough
4 of Penns Grove. Gentlemen, good to see you.
5 Thank you for your appearance today. Would you
6 kindly introduce yourself to the reporter, and
7 those that are not attorneys, be sworn in.

8 MR. LABB: Steve Labb, Chief
9 Financial Officer, Penns Grove.

10 MR. WASHINGTON: John Washington,
11 Mayor of Penns Grove.

12 MR. TELSEY: Adam Telsey, Solicitor
13 of the borough of Penns Grove.

14 (At which time the witnesses were sworn in.)

15 MR. CUNNINGHAM: So let me just,
16 Jeff, before you go, just establish that the
17 borough of Penns Grove is a transitional aid
18 municipality, so in my other capacity as the
19 Director of the Division, we work very closely
20 with the borough in terms of their financial
21 status, their budget and those types of things,
22 so we have relatively routine and direct
23 conversations with the borough.

24 This application is for the
25 dissolution of the Penns Grove Redevelopment

1 Agency, and Jeff, maybe you just want to
2 introduce to the Board the application and then
3 we can just talk about kind of --

4 MR. WINITSKY: Sure. This is about
5 as straight forward as it gets. The
6 Redevelopment Agency of the borough has,
7 essentially, been defunct for a number of years.
8 They have no assets. They have no debt. They
9 have no board. It is really sort of a line item
10 that exists in the borough's budgets and its
11 operations. It doesn't need to be there anymore.

12 This is a perfunctory matter. We're
13 before the Board to seek approval to finally
14 adopt an ordinance to dissolve the Authority.
15 There are no criteria to meet here because there
16 is no services being provided by the
17 Redevelopment Agency and they have no assets or
18 liabilities, so it's really perfunctory. We're
19 happy to answer any questions that you have, but
20 there is not much to tell at the end of the day.

21 MR. CUNNINGHAM: Just a couple
22 questions, and the first is a comment just to
23 memorialize on the record and be consistent with
24 what you said. The last budget that the Division
25 received was actually from 2010, so we haven't

1 had ongoing operations, and Mr. Labb, I'm going
2 to direct this question to you, and in no way am
3 I trying to be critical, but this is the issue we
4 had with that --

5 MR. LABB: Refunding model.

6 MR. CUNNINGHAM: A couple months
7 ago?

8 MR. LABB: Yes.

9 MR. CUNNINGHAM: So then my other
10 question, if whoever can speak to it a little
11 bit. There was a property, and that property had
12 been, I guess acquired by the agency, and I'm
13 just curious how much property and what is it and
14 do we have plans for --

15 MR. LABB: I can answer that. There
16 were approximately 32 properties that were
17 purchased by the Redevelopment Agency through a
18 loan of maybe 10 years, 10 to 15 years ago.
19 Those properties -- that was part of the
20 Redevelopment Agency's vision to try to redevelop
21 those properties and do something with them.

22 Nothing happened with those
23 properties, and approximately two to three months
24 ago, those properties were transferred from the
25 Redevelopment Agency back to the borough, so

1 those properties are no longer owned by the
2 Redevelopment Agency, owned by the borough, and
3 the borough is attempting to market those
4 properties and do what we can to get them back on
5 the tax roll.

6 MR. CUNNINGHAM: Are these scattered
7 sites?

8 MR. LABB: Yes, they're scattered
9 throughout the borough.

10 MR. CUNNINGHAM: Are any of them
11 near or part of the riverfront that I know the
12 mayor was looking to redevelop?

13 MR. LABB: I don't think --

14 MR. WASHINGTON: No.

15 MR. CUNNINGHAM: Just trying to
16 figure out how things fit into the overall
17 operation. Residential, commercial, large,
18 small? Do you have any sense?

19 MR. LABB: I think it's generally
20 residential. There may be come commercial in
21 there, but for the most part, it's residential.

22 MR. CUNNINGHAM: Obviously, we share
23 the Borough's desire to get these properties back
24 on the tax roll, to the extent that the Division,
25 Local Finance Board, with the extent that the

1 Division can be helpful in that regard in terms
2 of planning resources. Obviously, we have the
3 monitor, who worked closely with you on all these
4 types of things. Please let us know because
5 anything we can do to return all or some of 32
6 properties on the tax roll would be a benefit to
7 all of us.

8 MR. LABB: Thank you.

9 MR. CUNNINGHAM: Does the Board have
10 any questions on this particular application?
11 I'll make the motion to approve the dissolution
12 of the Penns Grove Redevelopment Agency, and I
13 would ask one of my colleagues --

14 MS. RODRIGUEZ: Second.

15 MR. CUNNINGHAM: Ms. Rodriguez I
16 heard second.

17 MS. MCNAMARA: Mr. Cunningham?

18 MR. CUNNINGHAM: Yes.

19 MS. MCNAMARA: Mr. Avery?

20 MR. AVERY: Yes.

21 MS. MCNAMARA: Ms. Rodriguez?

22 MS. RODRIGUEZ: Yes.

23 MS. MCNAMARA: Mr. Blee?

24 MR. BLEE: Yes.

25 MS. MCNAMARA: Mr. Light?

1 MR. LIGHT: Yes.

2 MR. LABB: Thank you very much.

3 MR. CUNNINGHAM: Thank you. Good
4 seeing you, gentleman. Move to a couple Newark
5 matters. The first is the Newark City Housing
6 Authority.

7 (At which time the witnesses were sworn in.)

8 MR. CUNNINGHAM: Would you introduce
9 your team and then, please --

10 MR. JOHNSON: Sure. From the City
11 of Newark we have Danielle Smith who is the CFO.
12 We have Morris Warner from the Housing Authority.
13 We have Tim Eismeier from NW Financial, the
14 Financial Advisor to the City of Newark, and I'm
15 Everett Johnson with the Wilentz, Goldman and
16 Spitzer Law Firm, Bond Counsel to the Housing
17 Authority of Newark.

18 This morning, this is actually a
19 joint application between the Housing Authority
20 and the city of Newark. The Housing Authority is
21 requesting the Board's approval to issue not to
22 exceed 67 million dollars of city secured police
23 facility revenue refunding bonds for the South
24 Ward police facility and sell those bonds on a
25 negotiated basis.

1 The city is requesting the approval
2 to adopt an ordinance authorizing the execution
3 of an amended capital grant agreement whereby the
4 city will make grant payments to the Housing
5 Authority in an amount sufficient to pay debt
6 service on the bonds. The original bonds were
7 issued in 2009 and they were utilized to finance
8 construction of a police facility that also
9 housed an office of emergency management and
10 homeland security.

11 By virtue of refunding those bonds,
12 the refunding estimated to yield a net present
13 value of debt service savings of 4,391,000 or
14 eight percent of the 2009 bonds that are
15 outstanding. All of the savings will yield to
16 the benefit of the city's budget, and we're here
17 to answer any questions that you may have.

18 MR. CUNNINGHAM: You covered the
19 majority of what I wanted to get onto the record,
20 I have to tell you. So the Housing Authority did
21 a financing for the city?

22 MR. JOHNSON: Correct.

23 MR. CUNNINGHAM: Obviously, there is
24 a clearer refunding opportunity, just to restate
25 what you already said, significantly over four

1 million dollars in savings, eight percent?

2 MR. JOHNSON: Yes.

3 MR. CUNNINGHAM: Obviously, if there
4 wasn't savings of three percent, the deal
5 couldn't proceed.

6 MR. JOHNSON: That is accurate.

7 MR. CUNNINGHAM: But we're well over
8 that and we don't see market conditions changing
9 such that this will not happen. As you obviously
10 and correctly stated, these savings are clearly
11 in order to the benefit of the city. The city,
12 again, like the prior applicant, being a
13 transitional aid town, a town that we work very
14 closely with.

15 This is clearly in everyone's
16 interest from a financial standpoint. Again, you
17 did an excellent job covering all the points that
18 I wanted to get memorialized on the record. Any
19 questions that I didn't think of from the
20 membership of the Board?

21 MS. RODRIGUEZ: No, but I have a
22 comment. I think this is a prudent way to keep
23 things happening in Newark, that desperately
24 needs the help, so I commend you.

25 MR. WARNER: Thank you.

1 MR. CUNNINGHAM: Would you like to
2 make the motion?

3 MS. RODRIGUEZ: I'll make the
4 motion.

5 MR. CUNNINGHAM: I'll second the
6 motion. Roll call, please.

7 MS. MCNAMARA: Mr. Cunningham?

8 MR. CUNNINGHAM: Yes.

9 MS. MCNAMARA: Mr. Avery?

10 MR. AVERY: Yes.

11 MS. MCNAMARA: Ms. Rodriguez?

12 MS. RODRIGUEZ: Yes.

13 MS. MCNAMARA: Mr. Blee?

14 MR. BLEE: Yes.

15 MS. MCNAMARA: Mr. Light?

16 MR. LIGHT: Yes.

17 MR. WARNER: Thank you.

18 MR. CUNNINGHAM: Thank you. We're
19 going to continue with the City of Newark. There
20 is an 18 million dollar proposed issuance for
21 environmental loans. If we have could have the
22 parties appear. Those that aren't counsel be
23 sworn in.

24 (At which time the witnesses were sworn in.)

25 MR. CUNNINGHAM: Counsel, would you

1 please introduce the new members of the team.

2 MS. OBERDORF: Sure. I'm Cheryl
3 Oberdorf, Bond Counsel to the city, DeCotiis,
4 Fitzpatrick and Cole. To the far right, Danielle
5 Smith, CFO; John George, Chief of Engineering and
6 Tim Eismeier, Financial Advisor to the city. The
7 city is undertaking rehabilitation of water mains
8 through its self-liquidating water utility.
9 There was an existing bond ordinance in the
10 amount of \$11,500,000 that was already adopted.

11 The city has introduced a
12 supplemental bond ordinance, in order to bring
13 total the amount of bonds or notes to the issue,
14 to 18 million dollars. The city is requesting
15 approval to issue those bonds or notes through
16 the EIT and also through the state of New Jersey
17 and the NJ DEP.

18 We're seeking approval to issue
19 those bonds as qualified bonds and also for a
20 nonconforming maturity schedule because,
21 obviously, pursuant to the EIT Program,
22 75 percent of the loan is at zero percent, so
23 it's difficult to ascertain exactly what the
24 maturity schedule will be at this point. We
25 respectfully request approval to issue the bonds

1 as qualified bonds to also go through the EIT and
2 also for the nonconforming maturity schedule.

3 MR. CUNNINGHAM: Thank you. And,
4 Counsel, I just want to put on the record, or ask
5 you to confirm, that if the project isn't ready
6 for the EIT 2016 funding cycle, you would go to
7 notes?

8 MS. OBERDORF: Yes, temporary
9 funding through notes with an interm financing
10 program with the EIT, and then fiscal year 2017
11 to do permit financing with the EIT.

12 MR. CUNNINGHAM: And I know you said
13 that percentage, but just in terms of dollars, of
14 the 18 million dollar project, by going through
15 the Environmental Infrastructure Trust,
16 13,319,000 would be done at zero percent
17 interest, which I think I always try to
18 underscore the attractiveness of the EIT program
19 for all of New Jersey's municipalities, but this
20 one is particularly advantageous.

21 MS. OBERDORF: It's also important
22 to point out that the EIT determined cost to the
23 eligible cost pursuant to its program.

24 MR. CUNNINGHAM: Thank you for that.
25 Any questions by the Board? I just want to note

1 that, as I said, Newark being a transitional aid
2 town, the fiscal monitor that's assigned to the
3 city has reviewed this application and issued a
4 memo to the Board with a recommendation, so we're
5 comfortable with it and I would ask for a motion
6 and a second.

7 MR. BLEE: Motion.

8 MR. LIGHT: Second.

9 MR. CUNNINGHAM: Mr. Blee. Mr.
10 Light seconds. Roll call, please, Pat.

11 MS. MCNAMARA: Mr. Cunningham?

12 MR. CUNNINGHAM: Yes.

13 MS. MCNAMARA: Mr. Avery?

14 MR. AVERY: Yes.

15 MS. MCNAMARA: Ms. Rodriguez?

16 MS. RODRIGUEZ: Yes.

17 MS. MCNAMARA: Mr. Blee?

18 MR. BLEE: Yes.

19 MS. MCNAMARA: Mr. Light?

20 MR. LIGHT: Yes.

21 MR. CUNNINGHAM: Thank you very
22 much. We're going to remain with the city of
23 Newark of 25 million dollar RAB issuance. Bye,
24 introduce yourselves to the reporter, and if
25 you're counsel, you don't need to be sworn in.

1 MR. ADOFO-WILSON: My name is Baye
2 Adofo-Wilson, and I'm Deputy Director of Economic
3 Housing Development for the city of Newark.

4 MR. CUNNINGHAM: Just to put a
5 comment on the record before we get to this
6 application. I think a lot of times when people
7 come to these meetings, so many of the
8 applications move quickly and there's not a lot
9 of question and debate, but I think that does a
10 disservice to the amount of analysis that goes
11 into applications.

12 But it's just done so heavily at the
13 staff level, that by the time an application
14 appears on the agenda, the staff feels very
15 comfortable and can make the recommendation to
16 the Board that it's with merit and should be
17 given full consideration, and in no instances is
18 more apparent than the applications in front of
19 us today.

20 Myself, my team, along with the city
21 and led by the mayor and the deputy mayor, we
22 have had a lot of conversations about this
23 particular application, and there was significant
24 disagreement on the city's initial application
25 and the legality thereof, but once again, through

1 a lot of dialogue and a lot of back and forth and
2 exchange of information, the application has
3 changed.

4 I think the city of Newark is still
5 achieving the objectives that it wants to
6 achieve, but I think that myself, as the
7 director, and I think the application in front of
8 the Board today is something that we are more
9 comfortable with, so I just wanted to note on the
10 record that this has been pending for a while and
11 I'm happy to see it come in front of the Board
12 today in the format that it is, so with that, I
13 don't know whether Baye, or Tim, you want to --

14 MR. EISMEIER: Sure. The
15 application that's in front of you is an
16 application for not to exceed 25 million dollars
17 in redevelopment area bonds to be issued pursuant
18 to the Redevelopment Area Bond Financing Law.
19 This financing arose from a PSE and G switching
20 station project in West Ward in Newark that's
21 currently under construction. The city and PSE
22 and G entered into a settlement agreement in
23 November of 2014.

24 The purpose of that settlement
25 agreement was to mitigate any potential negative

1 impact to the residents in that neighborhood of
2 the construction of that switching station.
3 Among other things, the settlement agreement
4 provided for the mitigation of that impact
5 through the construction of an architectural
6 screening wall and also provided that PSE and G
7 would enter into a long term tax exemption with
8 the city and would pay payments, in lieu of
9 taxes, in each year pursuant to a financial
10 agreement to be approved by the city of Newark.

11 Secondary to that, the city would
12 issue redevelopment area bonds secured by those
13 pilot payments, which would be non recourse to
14 the city, in that there will not be a general
15 obligation of pledge of the city to cover debt
16 service on these bonds just purely paid by the
17 pilot revenues. The pilot revenues will be
18 secured by a ground lease with PSE and G
19 Corporate and their urban renewal entity, a
20 subsidiary of PSE and G will own the property
21 that the switching station is on.

22 It's an unusual transaction, as the
23 director alluded to, in it's a RAB financing
24 where the developer is not looking for any of the
25 funds that are generated from the RAB. The

1 settlement agreement was clear in that the city
2 will be able to utilize to the funds for the RAB
3 for any allowable permits under the RAB statute.
4 What we've decided to do is to fund 13 various
5 projects throughout the city.

6 Deputy Mayor Adofo-Wilson can talk
7 in more detail about those projects and generally
8 about the city's redevelopment plan, but it's the
9 city's view that these are all very important
10 projects, a variety of different projects, and as
11 I mentioned, the RAB will be funding portions of
12 those projects, which are also funded from a
13 variety of different sources. In some cases, EDA
14 grants, HMFA financing and private financing as
15 well.

16 MR. CUNNINGHAM: To that point, Tim,
17 if I could interject a comment on the record, the
18 city came in to meet with the department because
19 the commission was actually there. It wasn't
20 just the Division, and we went through all the
21 projects. We talked about the impacts that it
22 would have on the city's redevelopment efforts.
23 We talked about the funds that were part of the
24 capital stack and what this component through the
25 RAB issuance would do to further them, so I just

1 wanted to underscore that for the record.

2 MR. EISMEIER: Sure. And I think at
3 this point, Mayor, if you want to talk about the
4 projects.

5 MR. CUNNINGHAM: Please.

6 MR. ADOFO-WILSON: Thank you. We
7 broke up the projects into three major
8 categories. One is projects that were near the
9 switching station. This project, was sort of RAB
10 came out of our response, the community was
11 really upset and organized pretty effectively to
12 stall the switching station, so we felt like the
13 neighborhood that was most impacted by it, should
14 somehow seek a benefit.

15 We also organized projects within
16 the neighborhoods that we call the Model
17 Neighborhood. It's where the Mayor is really
18 prioritizing in the poorest parts of the city
19 really projects that would help to revitalize the
20 neighborhood, help create jobs and hopefully
21 decrease crime, and then we have projects along
22 the riverfront.

23 The whole sort of east side of the
24 Passaic River, but we don't really activate it,
25 so we felt it was really important if we wanted

1 to increase our downtown to a 24 hour, seven day
2 a week city, that we needed to have parks that
3 were going to impact that. We have 13 projects.
4 Two projects that are near the switching station
5 is the Fairmount Towers Apartments and the West
6 Ward Community Center. There's 5 million dollars
7 in total.

8 They're really right adjacent to the
9 switching station in Central Avenue, and the goal
10 is really to revitalize our neighborhood and use
11 this project in that regard. And the other
12 projects, Triangle Park, Riverfront Park, are two
13 projects that are on the downtown. We just
14 recently released an RFP for both projects. We
15 had 28 responses. 18 for Triangle Park, 10 for
16 Riverfront Park.

17 Some of the top architects in the
18 county, not the world, responded really in a
19 sense of helping us rebrand and revitalize the
20 downtown area. There's several projects in the
21 Model Neighborhoods. The Women's Health Center,
22 New Horizon, as well as Residents City Hall are
23 in that area, and we have NJ Pact, Four Corners
24 that are downtown. For the most part, the goal
25 is we picked projects that we felt were really

1 going to be sort of impact.

2 These are projects, I can give you
3 packets of them. I don't know how much detail
4 you want to go into it, but I have -- we can go
5 into the budgets of each projects and show you.
6 Essentially, what we did, for the most part,
7 these projects are structured in a way where the
8 funding helps to fill a gap in the project. We
9 raised money for each of these projects on their
10 own and we felt like this funding could be really
11 helpful in terms of closing that gap, so I don't
12 know if you want to go through each project.

13 MR. CUNNINGHAM: I've gone through
14 the exercises as a staff, so I would ask the
15 Board, maybe if they had any questions on the
16 specific projects, we can do that. If not, there
17 is a couple other things I want to make sure we
18 get on the record prior to voting on the
19 application. Any questions on any specific
20 projects?

21 I think what might be prudent is I'm
22 going to put a couple comments on the record
23 while the Board looks through the package, and if
24 there are any questions about the project, we'll
25 certainly circle back to that. So as the Deputy

1 Mayor said, the city tried to identify the most
2 prudent use of the PSE and G settlement funds to
3 impact economic development and ultimately
4 increase tax revenue, or at least increase
5 revenue through a pilot to the city.

6 One of the things I want to note is
7 that after the debt service from the bonds is
8 paid, the city will still have available payments
9 from PSE and G that will continue to accrue into
10 the budget over a period of time, and that was
11 something that was important, from a cash flow
12 perspective, from the Division and that's
13 something we worked with the city to insure would
14 remain in the application.

15 I also note that because of the type
16 of financing that this is, that the Division
17 consulted with the Economic Development Authority
18 and the Office of Planning Advocacy, and both
19 have issued memos that they have reviewed the
20 projects and support their approval, and thirdly,
21 as I have said in the prior applications from the
22 city, being a transitional aid town, the Fiscal
23 Monitor assigned to the city was also involved
24 and has likewise recommended the approval of the
25 application in the format it is today which is,

1 as I said, significantly different from a legal
2 standpoint from where it appeared when it first
3 was submitted to staff a couple months ago.

4 So I do appreciate the hard work
5 that's been done, both by the team from the
6 division and the city, to get this to a point
7 today where we could have it to vote on. They
8 were the points that I wanted to get on the
9 record. I know the Board has been looking
10 through the projects. Are there any questions on
11 the application or anything that anyone would
12 like to be addressed by the applicant?

13 MR. LIGHT: They've done a good job
14 on their presentation packet.

15 MR. CUNNINGHAM: Mr. Avery?

16 MR. AVERY: I'm fine.

17 MR. CUNNINGHAM: This is important
18 to me. This is an important collaboration
19 between the division and the city. I can't tell
20 you the hours that went into this and it was
21 vexing, and I do thank the mayor and I'd ask the
22 deputy mayor to convey that back, for the ability
23 to work together and achieve something that I
24 think met all of our goals, so I'm going to make
25 a motion to approve this application and would

1 ask for a second from one of my colleagues.

2 MR. BLEE: Second.

3 MR. CUNNINGHAM: Mr. Blee seconds.

4 Roll call, please.

5 MS. MCNAMARA: Mr. Cunningham?

6 MR. CUNNINGHAM: Yes.

7 MS. MCNAMARA: Mr. Avery?

8 MR. AVERY: Yes.

9 MS. MCNAMARA: Ms. Rodriguez?

10 MS. RODRIGUEZ: Recuse.

11 MS. MCNAMARA: Mr. Blee?

12 MR. BLEE: Yes.

13 MS. MCNAMARA: Mr. Light?

14 MR. LIGHT: Yes.

15 MR. CUNNINGHAM: Thank you very

16 much.

17 MR. ADOFO-WILSON: Thank you.

18 MR. CUNNINGHAM: Evesham Township,

19 Proposed Dissolution of Municipal Utilities

20 Authority. I would ask that anyone who wishes to

21 comment on this matter, what we will do is we'll

22 have the applicant appear in front of the Board

23 and have some dialogue. Then we'll ask them to

24 stand down in the gallery and then invite members

25 of the public who would like speak.

1 I would ask, however, that the
2 members of the public attempt to limit their
3 comments to the information that's presented to
4 the Board today as opposed to reiterating what is
5 already on the record from a prior meeting, and
6 that's really just to kind of keep things moving
7 and to insure that we focus on new issues as
8 opposed to things that have previously been
9 presented to the Board and memorialized in the
10 transcript.

11 So with that, I would ask that the
12 team identify themselves to the reporter, and
13 those that aren't counsel be sworn in.

14 MR. NYIKITA: Josh Nyikita with
15 Acacia Financial Group. We're financial advisor
16 to the township.

17 MR. CZERNIECKI: Tom Czerniecki,
18 Township Manager.

19 MR. WINITSKY: Jeff Winitzky from
20 Parker, McCay, Solicitor and Special Counsel.

21 MR. SHANAHAN: Tom Shanahan, Finance
22 Director.

23 MR. HASTIE: Tom Hastie, Capehart
24 and Scatchard, Bond Counsel.

25 (At which time the witnesses were sworn in.)

1 MR. CUNNINGHAM: So this applicant
2 appeared in front of this Board at its last
3 meeting, presented the application. The matter
4 was then open to the public. The public spoke,
5 raised some significant questions, such that
6 would have been imprudent to try to answer all of
7 them on the fly. Because of that, the matter was
8 tabled. Questions were amalgamated by division
9 staff, submitted to the applicant and the
10 applicant has provided answers to the Board.

11 I do note that, as late as last
12 night, we did receive additional correspondence
13 from other members of the public. Well, I mean
14 we received other correspondence. I have read
15 it, but I think what I'd like to first do is
16 just -- let's just state for the record that this
17 is a proposed dissolution of the Municipal
18 Utilities Authority and proposed Refunding Bond
19 Ordinance of furthest of same, and what I think
20 would be prudent for the Board's benefit is to go
21 through the questions that were sent to the
22 applicant and then ask you to speak to the
23 responses.

24 I know division staff has seen them
25 and they have been circulated to the Board, but I

1 think, given the importance of this application,
2 we want to make sure everything is understood and
3 everything is accurately reflected, both in terms
4 of our understanding, and the record. Was there
5 anything before we get into that, that you
6 gentlemen felt you wanted to put on the record?

7 MR. WINITSKY: No, I think you
8 summed it up, other than we presented substantial
9 testimony at the last meeting. As you know, we
10 presented a great deal of materials in support of
11 the application. We believe there is quite a bit
12 here. A lot of time and effort was put into it.
13 This was not done lightly without serious
14 circumspection and consideration.

15 And we're happy to appear today to
16 answer any additional questions you may have, or
17 the public may have, in addition to the questions
18 that were specifically provided by the Board and
19 we have answered and I would add that likewise,
20 we received the additional letters in opposition
21 yesterday, so there hasn't been a great deal of
22 time to really dig into them, other than we
23 recognize that they're saying a lot of the same
24 things they said last month when we met, but
25 we're happy to address those items should it be

1 required today.

2 MR. CUNNINGHAM: There was one that
3 we can get to, but I think it's important that we
4 kind of go through the substantial questions that
5 have been sent and just go over your responses.
6 So the first questions that have been presented
7 to the Board really dealt with bulk water
8 purchase. And could you gentlemen speak to the
9 contracts that exist and the percentage
10 purchased?

11 MR. WINITSKY: Sure. There is two
12 existing contracts. One is with New Jersey
13 American Water and the other is sort of a tri
14 party agreement between the MUA, the Willingboro
15 MUA and the Mount Laurel. The contract with New
16 Jersey American Water provides for the provisions
17 of approximately 1,036,000 gallons per day or 378
18 million gallons per year.

19 The contract with the Willingboro
20 MUA and the Mount Laurel MUA is for the provision
21 of 27 million gallons per quarter or 180 million
22 gallons per year. Both of those contracts are
23 presently in place. The contract with New Jersey
24 American was renewed as recently as 2010. The
25 contract with Mount Laurel and Willingboro was

1 renewed in 2014. The authority receives,
2 approximately, 29 percent of its annual water
3 from New Jersey American and approximately eight
4 percent of its water from Willingboro and Mount
5 Laurel MUA.

6 MR. CUNNINGHAM: And obviously, kind
7 of going in the order of the questions and the
8 dialogue. These have been shared with members of
9 the public who have requested them, but I want to
10 be clear that we're working off of a document
11 that will be part of the record. Could you also
12 talk about the transition or transfer provisions
13 of those contracts should the dissolution be
14 approved?

15 MR. WINITSKY: Sure. First, and we
16 provided this in a response. Dissolution statute
17 requires that we assume those contracts. The New
18 Jersey American Water contract has specific
19 assignment and assumption provisions. The Mount
20 Laurel and Willingboro contract is actually
21 silent.

22 We didn't have anything to do with
23 drafting it, but should have, but by virtue of
24 operation of the statute, it comes to us by law.
25 We are hard pressed to try to break it, absent

1 going over and above what the statute requires.

2 MR. CUNNINGHAM: So you would
3 approach those entities -- if the dissolution was
4 advanced, you would approach those entities. Is
5 there any market reason, that you're aware of, of
6 why those contracts would not be continued in
7 substantially similar terms?

8 MR. WINITSKY: Part of the reasons
9 from the perspective of the township or the
10 perspective of the water providers?

11 MR. CUNNINGHAM: I think I'm really
12 kind of asking more in terms of the providers.
13 Is there any reason to think that this provision
14 of water would no longer be available to the
15 township as it is now with the Utility Authority?

16 MR. WINITSKY: We have no reason to
17 believe that it would be. We have existing
18 contracts that are in place. We've got four more
19 years on the New Jersey American contract. We've
20 got an additional three years on the Willingboro
21 Mount Laurel contract. We have no reason to
22 believe that any of those terms would be honored,
23 and we would obviously honor them on our end, so,
24 no. I mean, we can't speak for the water
25 provider.

1 MR. CUNNINGHAM: I understand that.
2 I wanted to know if there was anything from a
3 market perspective that you were aware of that
4 you would testify in front of this Board that the
5 terms of the contract or what the current value
6 of water is that you could not tell this Board
7 today, with honesty and integrity, that there was
8 some reason that you knew that these contracts
9 would certainly not be continued by any --

10 MR. WINITSKY: I have no reason to
11 believe that.

12 MR. CUNNINGHAM: I wanted to
13 transition to some specific questions that were
14 raised and how they really deal with the
15 township's use of funds and continued operations
16 of the Utility. When the Board receives
17 applications for dissolutions of authorities, we
18 typically view them with a level of scepticism
19 because too often, and I don't believe it to be
20 the case in this applicant, we see it as a very
21 shortsighted grant to get money and interject it
22 with a budget, to use the overused word, as a
23 gimmick, without sufficient thought being given
24 to the continued operations of the Utility, and I
25 personally spoke in front of the group that

1 represents the Utilities Authorities, and I said
2 during that, even during my tenure here, I wanted
3 to make sure that we only advance very reasonable
4 and prudent applications.

5 But if you gentlemen could just talk
6 about the current subsidy and continuance of
7 that, as was articulated in responses, and I just
8 want to ask you to verify the capital surplus and
9 the utility operating surplus, and then I guess
10 the unrestricted net positions. Could you go
11 over that element of the application?

12 MR. WINITSKY: Yeah, and I think
13 it's best to defer to Tom Shanahan and Tom
14 Czerniecki, Finance Director and the Township
15 Administrator. I can speak to it generally, but
16 you have very direct questions about line items
17 so I'll defer to them.

18 MR. SHANAHAN: First, on the
19 question of the subsidy that we've been receiving
20 for a number of years, we've presented to the
21 public and to the Board, that the concept here is
22 to simply experience this dissolution as simply a
23 shifting from an authority to the department, and
24 as much as possible, everything would remain the
25 same except for the benefits of debt service, and

1 a few other things that we discussed.

2 So in that respect, yes, we would
3 continue -- the plan now is to continue to budget
4 that same subsidy in that spirit of keeping
5 everything as it is as much as possible. It's
6 worked well for us. Chairman, we did look at
7 many of your other dissolutions with authorities,
8 and we did pick up on that concern that you spoke
9 about.

10 So in drafting the draft ordinance
11 that's going to be established, the department,
12 in our code book, we specifically identified
13 various things that our current authority does
14 that many others don't do, many towns don't do,
15 in terms of incorporating it into our department,
16 so we are committing to 1.5 million dollars for
17 utility reserve requirements, 3 million for
18 operating requirements.

19 Those things really aren't found in
20 other utility departments, but it mirrors what
21 currently happens. Now, the danger to us, in
22 doing that, is those funds automatically don't
23 appear there. We're committing to something that
24 we technically do not have to commit to and now
25 we have to raise those funds, so because we

1 didn't account for the entirety of the existing
2 reserve, it's to allow council some flexibility
3 to perhaps address future shortfalls in order to
4 fund that obligation, but some flexibility was
5 built in while also trying to address the
6 concerns we picked up in past applications. Tom,
7 is there anything you'd like to add to that?

8 MR. CZERNIECKI: Yeah, just to
9 confirm, specifically the 1.5 million system
10 reserve that will go to a utility capital surplus
11 and the \$3,007,600 would go to the utility
12 operating surplus.

13 MR. CUNNINGHAM: If the applicant's
14 position and testimony is that there still would
15 remain enough funds to support significant debt
16 service over the next decade to insure that
17 repairs and maintenance to the system would be
18 ongoing, such that it would continue to operate
19 at the same level of performance that it operates
20 today.

21 MR. WINITSKY: I would add that
22 we're adding a line item for Pago Capital, 2
23 million dollars, an ongoing line item for Pago
24 Capital which doesn't exist. The reason that
25 there is this amount of money, we'll call it set

1 aside for the Utilities Authority, is not
2 specifically because they want to, but they're
3 required to under the existing bond.

4 Not to say it's not prudent to do
5 so. We're following that logic in bringing the
6 same money for the same purpose constituting in a
7 new department. If there's a net benefit, that's
8 great. Ultimately, the council will determine
9 whether it's rate reduction or other capital
10 repairs and so on. It's all been very carefully
11 planned and committed in writing in our code
12 book, so it's not something that's sort of left
13 out either. It's going to be memorialized by
14 ordinance and code.

15 MR. CUNNINGHAM: The last area of
16 testimony I would ask the applicant to provide to
17 the Board is there was criticism regarding the
18 public participation and the public process, and
19 I would ask you to speak to the Board about the
20 efforts that were taken to do this in a public
21 and transparent manner.

22 MR. WINITSKY: Sure. This was
23 obviously, as I spoke earlier, was not done in a
24 vacuum, was not done without public
25 participation, and ultimately, the township was

1 not specifically required to include its
2 discussion up until and including the day that
3 the dissolution ordinance was introduced. That
4 notwithstanding, the township, township manager,
5 Mayor Brown, who is here today, made every effort
6 to engage the public in this as far back as
7 October of last year.

8 They had at least four, maybe five
9 meetings at which dissolution was included on the
10 agenda, although not specifically to be voted on,
11 just as a means to get the conversation going.
12 The township manager had, at its disposal, a
13 complete report, a slide show, anything that the
14 public may want to see was actually posted on the
15 township's website about why they were doing it,
16 what the pros were, what the cons were.

17 They've had ongoing discussions with
18 the public. October 20th there was a meeting
19 which it was raised. The Board of Commissioners
20 of the Authority itself had this discussion on
21 November 4th. Another meeting on November 10th,
22 it was listed on the agenda, another one on
23 February 9th. The ordinance itself was
24 introduced, so there was constant and continual
25 interaction and discussion with the public on

1 this matter. I believe in one of the letters of
2 opposition said it wasn't done in accordance with
3 the Sunshine Act. Nothing was being specifically
4 moved upon at those prior meetings, so the
5 Sunshine Act was not specifically implicated.

6 It certainly was with respect to
7 introduction of the dissolution ordinance and the
8 Refunding Bond Ordinance, and that was obviously
9 properly noticed. That is where that would
10 apply, but otherwise, it was done as a courtesy
11 to the residents of the township to talk about
12 this. This is not an easy matter. This is
13 something that's important to the mayor, the
14 council, which is why it was included as an
15 agenda item at least four times prior to the
16 actual voting on first reading, so that statement
17 we think was a little disingenuous in its
18 application, and those sitting on the dais today
19 were at those meetings so they can attest to the
20 discussion, and you know, heated or otherwise,
21 relative to dissolution well before we introduced
22 the ordinance itself.

23 MR. CUNNINGHAM: Mr. Avery, I know
24 in some of the correspondence that was received
25 recently, there had been a question and I think

1 you wanted to --

2 MR. AVERY: There was a statement in
3 one of the letters that the Board received that
4 the Authority had prepaid a water bill to some
5 outlandish period in the future. Is that an
6 accurate statement? Is there anything --

7 MR. WINITSKY: That the MUA had
8 prepaid a water bill?

9 MR. AVERY: Through 2034.

10 MR. WINITSKY: I'll defer to Tom
11 Shanahan and Tom Czerniecki. I'm not aware of a
12 prepayment, but again, I don't work for the MUA.

13 MR. AVERY: It just struck me as
14 odd.

15 MR. WINITSKY: Odd, yes. Tom, any
16 thoughts?

17 MR. AVERY: Or any other
18 prepayments?

19 MR. WINITSKY: Prepayments to a
20 provider?

21 MR. AVERY: It was just a water
22 bill. That's what it said.

23 MR. WINITSKY: Without knowing the
24 accounting of the MUA, I'm not --

25 MR. CUNNINGHAM: I looked at the

1 text of the question. The executive secretary
2 was kind enough -- and there is no additional
3 verbiage I can give to clarify it.

4 MR. WINITSKY: Which is probably why
5 we can't specifically respond. I'm not sure.
6 I'm not sure what that means. I'm not sure how
7 it implicates the MUA's funds.

8 MR. CUNNINGHAM: There is a chance
9 it could come up in the public comment portion,
10 so maybe we should just defer that question.
11 Before we ask for comments from the public, does
12 the Board have any other questions that I failed
13 to go over that they would like answered by the
14 applicant?

15 MR. AVERY: I have one question. My
16 recollection of the last time your presentation
17 was made, the vote at the township, to bring this
18 matter to the Local Finance Board, was three,
19 two. Generally, my understanding is you need
20 four votes to bond. Is that situation changed?
21 I mean one of the things we have to do is make a
22 positive finding that you're able to refund this
23 debt that exists out there, and as I understand
24 it, I don't know how you do that with only three
25 votes, unless that's changed locally and we're

1 not aware of it.

2 MR. WINITSKY: You're right on the
3 vote count for sure. Those are requirements both
4 with respect to the Refunding Bond Ordinance and
5 the dissolution ordinance. You are right, that
6 there were three votes at the time. Obviously,
7 nothing happened between then and now. There is
8 obviously ongoing discussions with counsel.

9 I think part of their deliberate
10 process is understanding that the Local Finance
11 Board feels comfortable with the dissolution
12 before they're willing to vote one way or the
13 other, and we would ask that the Local Finance
14 Board not specifically legislate in front of our
15 own council members but they look at the merits
16 of the application and satisfaction and criteria
17 to dissolve, recognizing there is still some
18 question whether or not a fourth vote exists

19 But that is for council to
20 ultimately decide, but we can't even get there if
21 we don't get the approval from this Board as to
22 the merits of the dissolution itself, so we ask,
23 recognizing that that is still on the table, and
24 I'm obviously not a member of council, I know
25 there are still ongoing discussions and the

1 comfort level will probably be enhanced by virtue
2 of action here today.

3 MR. CZERNIECKI: If I could just
4 add. In the minutes of the vote to proceed with
5 this, one of our elected officials indicated that
6 a certain discomfort with the message that the
7 vote sends to the authority and their employees,
8 why couldn't we start this process without such a
9 definitive vote, why couldn't we go to the Local
10 Finance Board to start this process without
11 sending a message to the authority that we don't
12 have confidence in that, so if you look at the
13 minutes, that was the nature of one of the
14 council member's comments.

15 MR. AVERY: So Mr. Chairman, if the
16 Board was to authorize by today the dissolution
17 of this MUA, and the municipality wasn't able to
18 meet the requirements, the matter would just
19 drop? Is that my understanding?

20 MR. CUNNINGHAM: Yes.

21 MR. WINITSKY: If we couldn't issue
22 refunding bonds, we certainly wouldn't dissolve a
23 Authority for which we could not satisfy the
24 criteria.

25 MR. AVERY: It would just end.

1 MR. CUNNINGHAM: That's the issue
2 that we as a Board face is the fact that we --
3 adequate provision for creditors would need to be
4 provided for statutorily under the dissolution
5 statutes and here, and maybe we would try to do,
6 is if a vote was taken later today, just include
7 in the resolution specific language that if the
8 township was unable to proceed, then the
9 application for refunding bonds and everything
10 else would be rendered and no longer effective.

11 MR. AVERY: Thank you.

12 MR. CUNNINGHAM: Any other questions
13 for the applicant at this time before we seek
14 input from the public? So gentlemen, I would ask
15 you, if you wouldn't mind, stand down. I would
16 ask those members of the public that would like
17 to speak to come up one at a time. Good morning.
18 I know you were here at the last meeting, but
19 would you kindly introduce yourself and be sworn.

20 MS. BERNARDI: Rosemary Bernardi.

21 MR. CUNNINGHAM: We'll do one at a
22 time. Miss Bernardi, please be sworn in and make
23 your comments, please.

24 (At which time the witness was sworn in.)

25 MS. BERNARDI: I just want to thank

1 you all for tabling the resolution last month,
2 taking the time to do further fact finding. I do
3 appreciate it. There was another gentlemen with
4 us, two other people, Mr. Warren. You received a
5 letter from him?

6 MR. CUNNINGHAM: Additional
7 correspondence from him as well.

8 MS. BERNARDI: So I just wanted to
9 point out two things on his letter. He was
10 unable to be here today, so I just want to
11 highlight, I guess, I don't know if it's better
12 if we go through the questions and I can --

13 MR. CUNNINGHAM: However you would
14 like to make public comment to the Board. As I
15 said, if there are things that were newly
16 presented or newly be considered to the Board,
17 please make the Board aware of it.

18 MS. BERNARDI: Okay. I guess we can
19 start with the question that Mr. Avery said. You
20 were asking about the prepayment issue, and that
21 was regarding rent, from my understanding, and I
22 don't how much the amount was. From my
23 understanding, that was a payment for rent to the
24 township from the MUA because they currently --
25 they have offices in the township building, so

1 that was my understanding about that prepayment
2 issue. And the question about you have, what
3 contracts exist for water purchase with the
4 authority.

5 The concern here with the 1 million
6 dollars to the American Water, that is a rate, so
7 I guess, from my understanding, how this is
8 working, that if Evesham Township uses more than
9 the 1 million gallons, over that rate, say they
10 did 1.5 million, they are then charged that 1.5
11 as a daily rate going further, so the reason I'm
12 bringing this up is that in the other questions
13 that you were asking them, whether or not their
14 contracts are going to be transferred, I guess
15 the question is regarding the Mount Laurel
16 contract, and I believe it was for \$43,000.

17 If they weren't able to transfer
18 that and then they had to go through American
19 Water for that overage, that they would now be
20 paying a higher rate, so that's why I was
21 bringing that up. Your question, Mr. Chairman,
22 regarding the subsidy of the \$800,000, will that
23 continue. I don't know if you saw in the
24 application that that subsidy, the MUA is paying
25 the township a percentage. Well, the 800,000 was

1 this year's rate. I believe it was two years ago
2 that the township was only paying 200,000 to the
3 township and now it's \$800,000.

4 In this application, though, if they
5 were to merge and actually become one department,
6 why would that subsidy still exist, so I think
7 your question as a public person would be why
8 wouldn't there be a cost savings that we
9 wouldn't, as a rate payer, be paying to the
10 township that \$800,000, so that is one thing that
11 I'd like to highlight. In terms of your
12 questions regarding the reserves and the
13 surpluses, again, you know, the township manager
14 can say that they want to codify it, but again,
15 that could easily be changed by council.

16 People change -- and it just
17 requires council to override that. The question
18 that you have here, the 10.2 million of
19 unrestricted net position, the plan, they only
20 discuss 6.5 million dollars in the document, so
21 the question is what about the 3.7 then between
22 the 10.2 and the 6.5. If you look at the
23 response from the township, it says, any
24 remaining fund balance would be unreserved and
25 could be used for any legal purchase. This is

1 the concern that I think Mr. Chairman brought up
2 in the beginning, this money is then -- any legal
3 purpose, what does that really mean, so that
4 concern is that, you know, whether or not they
5 refund that back to the rate payers, whether or
6 not they transfer it to another project.

7 Could it be used for recreation,
8 could it be used for roads, et cetera, so that is
9 concerning, what happens, because we have such
10 infrastructure issues. I don't know if you saw,
11 the township presented at the MUA meeting their
12 presentation and I believe it was November, so
13 when the township manager came to the MUA
14 meeting, the MUA was presenting their capital
15 improvement, and they were talking about the
16 infrastructure projects that they have.

17 We have clay pipes. We have
18 asbestos pipes. We have infrastructure that is
19 50 to 60 years old, so because of the soil and
20 the types of pipes, there is significant
21 infrastructure issues, so not investing in that
22 going further, what is that impact to the rate
23 payers and then, slash, taxpayers if the
24 dissolution were to go through. My next point is
25 what are the public hearings that have been held

1 to discuss the dissolution of the authority.
2 This was first brought up under the, I believe it
3 was in October was the first meeting that this
4 was discussed, and the way the township manager
5 had put it on the agenda for the meeting, it was
6 under, quote, section four, section seven.

7 It was a work session. Number two,
8 Review NJDCA Best Practices, slash, Questionnaire
9 Discussion. Well, under that heading, would you
10 have thought that was the discussion, the MUA
11 dissolution? No. So that was the first time
12 that it was not clear to myself, as a public
13 participant, that that was really the first time
14 that they were bringing it up, and in that
15 meeting, that is when the first time, not knowing
16 that presentation, that, and I apologize for
17 sending it so late.

18 I included the video link of that
19 particular meeting where the Mayor in the public
20 portion, when I did go up to speak about the
21 questions, was condescending, dismissive of the
22 questions and ridiculed my comments, not just me,
23 but Mr. Mills and Mr. Warren, so you know, to say
24 that -- and I understand they did present it, but
25 having that dialogue was not really -- it was not

1 free flowing.

2 So the other concern I had was
3 regarding the public participation is that the
4 two ordinances that were required to move this
5 application along, they were tabled three times,
6 so as a public person, even though you see it on
7 the agenda, you don't know if it's actually going
8 to be voted on or not until you go to the
9 meeting, so that whole dialogue and process, by
10 the time they actually voted on it, it wasn't
11 until January 12th, so it was sort of like a fire
12 drill for the public.

13 Is it going to be this meeting or
14 next meeting, so I feel that, I don't believe
15 they did it intentionally. It was not that, but
16 it's just hard for the public to be engaged all
17 the time to really follow this through, so it is
18 a challenge. Then regarding the future capital
19 costs, this is where Mr. Warren actually wrote in
20 his rebuttal, I think there was a question still
21 regarding what is the actual amount of the
22 capital cost.

23 You know, in here, it talks about 66
24 million, but I believe in Mr. Warren's rebuttal,
25 the total, I believe, was 101 million, and the

1 way it was financed out, so I think that was a
2 discussion and I didn't hear that, like what the
3 discrepancy was between those two numbers. And
4 then the only other concern I have is, and I
5 don't know if this is just what this is, and the
6 question you had to verify the licensed water and
7 sewer operators to be employed by the
8 municipalities, there is only 42 employees.

9 So I don't know if this was supposed
10 to be all employees to be included or just the
11 license because some weren't licensed. I didn't
12 want those people not to be included because I
13 believe the intent is to have the 52 employees
14 transfer over, so that's it. Now, the other
15 person who I believe gave you written
16 correspondence was Ron Auwein.

17 MR. CUNNINGHAM: We read the
18 correspondence. If you have public comment that
19 you want --

20 MS. BERNARDI: I just wanted to
21 bring -- Ron Auwein, just for the record, that he
22 has contacted you. He is a member of the public
23 and actually he is spearheading a petition that
24 if this does were to go through that, that this
25 would be requiring a public vote on this

1 application, so I guess the end of my testimony
2 really is, you know, of course, I have concerns
3 because the monies really can't be totally
4 earmarked for capital improvement, they can't be
5 earmarked totally for the water.

6 So that is my concern, so I would
7 like to see that the Board amend or recommend in
8 their thing that it actually go back to the
9 voters because I always say, and when I started
10 my testimony at the last meeting, all politics is
11 local. You guys are looking at this application
12 and it might be checking all the boxes, but at
13 the end of the day, it's those five people that
14 are sitting at a council table that are going to
15 be deciding what to do with that capital reserve
16 money, so that's the concern.

17 I think the local Evesham voters
18 should be able to, and rate payers -- 97 percent
19 of the rate payers are taxpayers, so they should
20 have the final say on this matter, so thank you
21 for your time.

22 MR. CUNNINGHAM: We appreciate your
23 testimony very much. Thank you.

24 MR. MILLS: My name is Kenneth
25 Mills.

1 (At which time the witness was sworn in.)

2 MR. MILLS: I'd first like to state
3 that the attorney that testified that there was a
4 public meeting held, I don't believe he was at
5 the meeting, so I don't think he should testify
6 to that, whether that's happened or not. I was
7 at the meetings and I don't think the meetings
8 were conducted in a manner mandated by the New
9 Jersey Sunshine Law, so I hope you will take that
10 into effect. I also want to thank the Board for
11 their attention and for reading all of our
12 correspondence.

13 I hope you will treat this case just
14 like it was your own town and that you'll be
15 careful of the money that's being spent today.
16 To quote Billy Graham, he says time is like a
17 river, you cannot touch the water twice because
18 the flow that has passed will never pass again,
19 so whatever water we have today, we may never
20 have again. To get back to some other points
21 that I want to make. The -- that was requesting
22 about the rent, that is in the MUA's report.

23 It's on-line and the city received a
24 copy of that. They testified that they don't
25 know about that. I don't see why because I've

1 read it on-line and they did pay it until 2038.
2 It didn't happen on this Mayor's watch, but it
3 happened on the other Mayor's watch, but still t
4 was like 400 and some thousand dollars, I believe
5 that they paid, and I don't know where that
6 money -- I think that money should come back to
7 the rate payers if they go through with this.

8 To get to the three point, there is
9 3.7 million dollars that the city has not
10 addressed. The two councilmen that voted for it
11 and the vote was three, four and two against, and
12 the two councilmen that voted for it, did specify
13 that all of the money should be reverted back to
14 the water department, and they felt that if in
15 the event that this goes through, that the money
16 should either go to the rate payers or into a
17 special fund to be used for water and sewer
18 repairs and replacements.

19 I guess that's about all I have, but
20 I hope that you'll look at this carefully and
21 we're hoping that before the Board does approve
22 this today, that they'll attach a clause on there
23 that will require a public referendum by the
24 people of Evesham. Thank you.

25 MR. CUNNINGHAM: Thank you, Mr.

1 Mills. May I ask the applicant to come back
2 before the Board. Any clarification on this?
3 I'm not sure I understand it.

4 MR. WINITSKY: Sure. I don't think
5 it was clear in the letter that that's what the
6 payment was for and it was done by the MUA. The
7 township did not decide to make that payment.
8 The MUA did, so that was their decision to prepay
9 rent, so be it. I'm not exactly sure what we can
10 do to undo that prior decision, where the money
11 has been budgeted by the township.

12 Since I can only speculate, but it
13 was a decision made by the MUA, not the township,
14 so I'm not sure how we respond to that in
15 particular. Obviously, there's a lot of
16 discussion relative to the use of the excess
17 surplus, the 3.7 million dollars give or take,
18 and that a referendum be placed on use of that
19 money. I would strongly object to that being a
20 condition of approval today.

21 That's not required by law. It's
22 not permissible, frankly. You would be creating
23 a new statute in doing so. The purpose, like the
24 MUA, Board of the Township Council is to think
25 very, you know, carefully about what to do with

1 that money. There is public comment and you talk
2 to your elected officials and the township
3 manager and you express your desire to where that
4 money should go before it's budgeted for.

5 That's the point of the process of
6 budgeting so we could ask that that not be
7 considered today as a condition, and if there's
8 anything else that we could clarify or respond
9 to, we're happy to do so, but we believe that our
10 prior testimony and our prior materials speak for
11 themselves.

12 MR. CUNNINGHAM: Any other specific
13 questions from Board members about the
14 application or any other questions for the
15 applicant?

16 MR. AVERY: I have one clarification
17 that would help me in my decision is that I'm
18 aware that utilities authorities are allowed, by
19 statute, to make a donation to the municipality.
20 Does that same statute apply to the form of
21 utility that you're proposing to create here?

22 MR. WINITSKY: It does not in that
23 that's in the MUA's acts. The thought here was
24 to continue from taking the utility budget back
25 to the township's general budget, all be it from

1 a different mechanism. Instead of coming out of
2 the separate entity in the form of a MUA, it's
3 simply a line item contribution from the utility
4 budget into the township's budget.

5 It's how they would account for it
6 year over year. It's not specifically set by
7 statute once it's a department of the township,
8 but that is what we intend to do. Obviously,
9 that number can change as budgets change as needs
10 arise, but that was the expectation.

11 MS. RODRIGUEZ: Once it goes into a
12 township department, everything goes into the
13 general budget. I just want a clarification. I
14 think I asked this the last time, but I'm not
15 sure. The MUA is made up of how many
16 commissioners or representatives in terms of a
17 board?

18 MR. WINITSKY: Five.

19 MS. RODRIGUEZ: How are they placed
20 there?

21 MR. CZERNIECKI: By the Mayor and
22 council.

23 MS. RODRIGUEZ: By the Mayor and
24 Council, right. Okay.

25 MR. LIGHT: I have one question so

1 that I understand the prepayment that has been
2 talked about. That prepayment was made at some
3 time in the past. It was a lump sum prepayment
4 that was intended by the MUA to cover rent for a
5 certain period; is that correct?

6 MR. WINITSKY: Yeah. It may have
7 been when the township actually developed and
8 instructed their new township building. That may
9 have been part of the overall financing plan that
10 could have been a waiver of down payment.

11 MR. LIGHT: It's not a sum of money
12 or a bill that's standing out today. This was
13 something that was done in the past.

14 MR. WINITSKY: Correct.

15 MR. HASTIE: And they'll continue to
16 utilize that space.

17 MR. WINITSKY: They stay in the same
18 space.

19 MS. RODRIGUEZ: Now, it just becomes
20 a department.

21 MR. WINITSKY: That's the only
22 difference.

23 MS. RODRIGUEZ: It's one budget now.

24 MR. WINITSKY: It is.

25 MR. CUNNINGHAM: I think my comment

1 before the Board entertains a vote is that
2 municipalities are permitted to dissolve
3 utilities, and there clearly are certain statutes
4 that govern that process and they're fairly
5 common that these types of applications come to
6 us, but the Board's limitation, as council
7 pointed out, is we are restricted by the language
8 in the statute is in terms of what is
9 permissible.

10 I don't think it's necessarily
11 proper for this Board to replace the policy
12 making of a local elected board, and I did listen
13 very carefully to the public comment, but we are
14 not elected officials. We are a Board that is
15 charged with evaluating applications under a
16 statutory framework and undertaking that
17 analysis.

18 I have to say that, of the
19 dissolution applications that have come before
20 this Board during my tenure and those that I know
21 prior to my tenure in this position, this
22 application is one of the stronger applications
23 I've seen. I think it is, from my perspective,
24 not speaking on behalf of the other Board
25 members, financially responsible, and frankly, in

1 all respects that I can see, in accordance with
2 the law, and that is what the Board is charged
3 with, so I honestly see no reason why this Board
4 should not, or at least should not take a vote,
5 but personally, I see no reason I would vote not
6 to move forward with this application.

7 I do want to say though, that the
8 concept of attaching a provision that a public
9 referendum be held is not something that we are
10 statutorily permitted to attach to a resolution,
11 should the application pass. What I am prepared
12 to recommend be attached to the application or to
13 approving resolution, should the Board so vote,
14 is the provision -- that should the local body
15 not vote in a manner to proceed, we will have
16 explicit language in there that the entirety of
17 it cannot proceed.

18 That's my position on the matter. I
19 think, that I would, with that one particular
20 condition, or at least aspect, I will make sure
21 the resolution is clear about, I will make a
22 motion to approve the township of Evesham's
23 application to dissolve Evesham Township MUA as
24 it is a statutorily permissible action, and the
25 application that was submitted in front of the

1 Board was done so in a manner that comported with
2 the law, so I will make that motion.

3 MR. WINITSKY: Before you vote, can
4 I just get one point of clarification?

5 MR. LIGHT: You have to get a
6 second.

7 MR. BLEE: Second.

8 MR. CUNNINGHAM: Second from Mr.
9 Blee.

10 MR. WINITSKY: The condition that we
11 abandon the dissolution, if there is not a vote,
12 obviously, we would do that. Would that preclude
13 the township forever from seeking approval --

14 MR. CUNNINGHAM: No, no, not at all.
15 Just moving forward with the Refunding Bond
16 Ordinance or anything on that because I think Mr.
17 Avery brings up a very important point, and I
18 actually had a slight side bar with counsel, that
19 it is a bit of a chicken or the egg type thing.
20 We have to insure that we're giving approval
21 theoretically for funding ordinance, and if you
22 don't have the local support, obviously this
23 Board's approval would not continue.

24 I'm not even sure it's going to
25 represent itself as a condition. It just may be,

1 we'll be very careful in the language of the
2 authorizing resolution should the Board concur
3 the motion and second.

4 MR. WINITSKY: Thank you. We have
5 absolutely no objection.

6 MR. CUNNINGHAM: Roll call.

7 MS. MCNAMARA: Mr. Cunningham?

8 MR. CUNNINGHAM: Yes.

9 MS. MCNAMARA: Mr. Avery?

10 MR. AVERY: No.

11 MS. MCNAMARA: Ms. Rodriguez?

12 MS. RODRIGUEZ: Yes.

13 MS. MCNAMARA: Mr. Blee?

14 MR. BLEE: Yes.

15 MS. MCNAMARA: Mr. Light?

16 MR. LIGHT: Yes.

17 MR. CUNNINGHAM: Okay.

18 MR. WISNITSKY: Thank you.

19 MR. CUNNINGHAM: I thank the public

20 for their very diligent and thorough comment.

21 Next matter in front of the Board, Bridgeton

22 Municipal Port Authority. Thank you very much.

23 For the reporter's benefit, both are counsel,

24 would you just introduce yourself and then we can

25 commence with this matter.

1 MR. LANGHART: Sure. Christopher
2 Langhart, McManimon and Scotland, Bond Counsel to
3 the Port Authority.

4 MR. BONCHI: Keith Bonchi,
5 Goldenberg, Mackler. I'm the attorney for Henry
6 Grove.

7 MR. CUNNINGHAM: Mr. Langhart, I'll
8 turn this over to you. Obviously, the Bridgeton
9 Port Authority had proposed an action in front of
10 the Board that you're now seeking to withdraw, so
11 I'll let you explain that for the Board.

12 MR. LANGHART: Thank you for hearing
13 our application. We're here because back in 2015
14 the Municipal Port Authority came before this
15 Board and requested approval for the sale of
16 certain parcels of land to the city of Bridgeton.
17 We've now reconsidered and we're asking that --
18 and that approval was given on June 10th 2015.
19 We now would like to rescind that approval and
20 that's what we're asking for approval. It's
21 fairly simple.

22 MR. CUNNINGHAM: Okay. I'll make a
23 motion authorizing accepting that recision, and I
24 would ask for a second from the Board.

25 MR. BLEE: Second.

1 MR. CUNNINGHAM: Second from Mr.
2 Blee. Roll call, please.

3 MR. LIGHT: May I ask a question?

4 MR. CUNNINGHAM: Of course, Mr.
5 Light. I'm sorry. I should have asked.

6 MR. LIGHT: That's okay. We're
7 voting on the sale of the property first and then
8 there is another motion after this?

9 MR. CUNNINGHAM: Mr. Light, we
10 believe that in light of this withdrawal, that
11 the second item on the agenda will be rendered
12 moot.

13 MR. LIGHT: Okay. I wanted to make
14 sure. Thank you.

15 MR. LANGHART: It's not a vote on
16 the sale of the property. It's for residual
17 approval of the sale of the property.

18 MR. CUNNINGHAM: So we had a motion
19 and a second I think I heard, right? So we would
20 need a roll call, please.

21 MS. MCNAMARA: Mr. Cunningham?

22 MR. CUNNINGHAM: Yes.

23 MS. MCNAMARA: Mr. Avery?

24 MR. AVERY: Yes.

25 MS. MCNAMARA: Ms. Rodriguez?

1 MS. RODRIGUEZ: Yes.

2 MS. MCNAMARA: Mr. Blee?

3 MR. BLEE: Yes.

4 MS. MCNAMARA: Mr. Light?

5 MR. LIGHT: Yes.

6 MR. BONCHI: Mr. Chairman, I need a
7 resolution in writing before I can withdraw the
8 appeal and only because I'm still waiting for the
9 resolutions from the February meeting, but the
10 quicker I can get this, the quicker I can
11 withdraw the appeal to render the motion to
12 settle the record moot.

13 MR. CUNNINGHAM: So we can say for
14 today that, Mr. Bonchi, there is no need for the
15 Board to hear the motion to settle the record on
16 appeal, but that you would --

17 MR. BONCHI: Before I can
18 actually --

19 MR. CUNNINGHAM: Before you can
20 actually do anything, we would need to provide
21 the resolution.

22 MR. BONCHI: I would suggest that
23 you carry the motion to settle the record. As
24 soon as I get the resolution, Miss Walters and I
25 will deal with the Appellate Division to withdraw

1 the appeal which would render that moot.

2 MR. CUNNINGHAM: Okay.

3 MR. BONCHI: Thank you very much.

4 MR. LANGHART: So by carrying the
5 motion, will that be on the agenda next time?

6 MR. CUNNINGHAM: It depends on,
7 assuming yeah -- we'll let you know, depending on
8 what we get and the status of the resolution.

9 MR. LANGHART: Thank you, Director.

10 MR. BONCHI: Thank you to the Board.

11 MR. CUNNINGHAM: The last matter in
12 front of the Board is the appeal of Director's
13 decisions in two regards both emanating out of
14 the Cherry Hill Township Fire District Number 13.
15 One dealt with the fire district budget. One
16 dealt with the Local Finance Board application.
17 I just want to put a quick statement on the
18 record and then I am going to recuse myself from
19 the dais.

20 Mr. Light will assume the
21 chairmanship for purposes of this appeal and then
22 we can have Mr. Braslow and his colleagues be
23 sworn in. So before I step down, I just think
24 it's important to note on the record the decision
25 of the Director, based upon meetings with the

1 applicant, a prior appearance by the applicant,
2 consultation with division staff and on advice of
3 counsel, this really dealt with the statutory
4 definition of a fire house.

5 It's not uncommon that lawyers can
6 have very different opinions and we tend to parse
7 words in very particular ways. This had to do
8 with what is a fire house and what is a training
9 component of a fire house. It is my opinion, I
10 believe shared by counsel, that a fire house
11 would not cover the construction of a burn
12 building of a training facility.

13 It was for that reason, that I
14 initially did not move forward with the Local
15 Finance Board application for the financing of
16 the application under 52:27BB-15. The fire
17 district then posited that if they were to raise
18 the funds in the municipal budget, obviating the
19 financing application, whether that would be
20 permissible.

21 And again, because we knew of and
22 had that statutory discrepancy or difference of
23 opinion, we as a division couldn't allow that to
24 move forward as well, so that was generally the
25 purpose of, as I think is certainly appropriate.

1 It's an appeal of my decision, so I will
2 certainly recuse myself from the dais. I would
3 ask Mr. Light to make sure that the parties
4 appearing in front of the Board today are
5 identified and sworn in and then I will take my
6 leave.

7 MR. LIGHT: Mr. Light, I would ask
8 my constituents. I think I'd like a five minute
9 break. Would that be all right?

10 MR. CUNNINGHAM: Sure.

11 (Whereupon a break was taken.)

12 (At which time Mr. Cunningham
13 recuses himself from the hearing.)

14 MR. LIGHT: Thank you for your
15 patience. Before us today is two items, Cherry
16 Hill Township Fire District 13. First item
17 involves the fire district budget, and the second
18 item is the Local Finance Board application, so
19 whichever one goes together, we'll be considering
20 them, Local Finance Board application at this
21 time and Tim made some comments based on the
22 decision that was made.

23 I'm going to make a few comments on
24 some of the information that we have and it's a
25 vast amount of information that we have; that it

1 would appear that the issue here today is based
2 on requests by the Cherry Hill Fire to build a
3 burn facility on their property at the district.

4 And it seems that the matter that we
5 have to consider ,that the Attorney General's
6 office has ruled that the authority, the district
7 does not have the authority to raise money in its
8 budget for this purpose, the purpose of building
9 a burn facility as a district on this property,
10 so I think that that's probably the question the
11 members of the Board are expecting to hear from
12 this, but with that in mind, I'll turn -- first
13 of all we have to have you introduce yourself and
14 be sworn in, please.

15 MR. BRASLOW: Sure. Richard Braslow
16 representing the fire district.

17 MR. KOLBE: Thomas Kolbe. I'm the
18 Fire Chief for the Fire District.

19 MR. CHRIS CALLAN: Chris Callan, the
20 Assistant Fire Chief.

21 MS. MONTANA: Kellie Montana, one of
22 the Fire Commissioners.

23 (At which time the witnesses were sworn.)

24 MS. RODRIGUEZ: I have to recuse
25 myself. I'm going to step out.

1 (At which time Ms. Rodriguez recuses herself
2 from the hearing.)

3 MR. LIGHT: You're going to be
4 recusing yourself. Mr. Braslow, will you,
5 please.

6 MR. BRASLOW: Sure. Because both
7 issues, there is two standing appeals because the
8 facts and the statutory issue related to both
9 matters, what I'd like to do, in a summary
10 fashion, just chronologically explain why we're
11 here today and then present in a summary fashion
12 what our arguments are. The fire district, back
13 in 1973, had constructed a burn building. That
14 burn building was physically connected to the
15 fire house.

16 Those facts are important as we
17 continue this discussion and analysis. The
18 facility was used for training. It's a state
19 Division of Safety certified Tier 1 facility.
20 There was a Power Point presented by the fire
21 district explaining the importance of the
22 facility. There was an engineering analysis and
23 it was a recommendation, based on that
24 engineering analysis, that the burn building be
25 replaced. That burn building will no longer be

1 physically connected to the fire house because
2 the NFMA mandates that, for safety reasons, it no
3 longer be physically connected to the main fire
4 house structure.

5 However, it is on the same property
6 within 100 yards of the main fire house.

7 Application was made to the Local Finance Board.
8 All the appropriate financing bids were secured.
9 The project was bid. The fire district has voter
10 approval. The fire district has planning Board
11 approval. We know that when we appeared with the
12 application back in November '12, there was
13 commentary on the record that the Director had
14 some issues and concerns and was going to get an
15 Attorney General's input on whether that was
16 permissible.

17 The first thing I would argue is
18 that when you're replacing a structure that is
19 physically connected to the fire house, to me, on
20 the face of the statute, it's raising revenue and
21 doing a project that's a fire house. Factually,
22 I think on that basis alone, the statute has been
23 complied with. We then raised a secondary
24 argument, and that is, there is no statutory
25 definition of fire house. And within the fire

1 service industry, one refers when we talk about a
2 fire house, to the main structure and the
3 impertinences.

4 And as I said, even if you don't
5 accept the first argument factually, we go to the
6 second argument, and the second argument is when
7 you talk about a fire house, you talk about the
8 main building and the impertinences, which this
9 clearly fits in. The third argument that I
10 presented was a statutory argument. Now, I can
11 only assume that this might be the only argument
12 that perhaps was run in front of the Attorney
13 General's office.

14 I raised an issue of statutory
15 interpretation and the fact that, in my opinion,
16 under case law, which I cited, you read the
17 statutes in concert of what's called the pari
18 materia, and based on that, with a lot of
19 sprinkled language throughout the fire statutes,
20 the statutes has the same rights and privileges
21 and obligations as a municipality, my argument
22 went much further.

23 And I'm assuming you read the memo
24 that I submitted, but the fact is that under
25 that, in the issue of statutory interpretation, I

1 felt also that I justified the ability of the
2 district to proceed. What happened, because of
3 the delay, the fire district's ability to provide
4 training, which is crucial, has been severely
5 compromised.

6 This is not the only district that
7 has a county fire training facility that doesn't
8 use the county fire training facility. I
9 indicated in my last appearance before the
10 Finance Board and we talked about Ocean County,
11 which we're going to come back to, and I talked
12 about other counties where districts or
13 municipalities have their own training fire
14 centers for reasons they have determined is
15 appropriate within their fire expertise, and
16 therefore, they use that aspect.

17 This, again, is a district that has
18 been doing this since 1973. The Power Point
19 clearly indicates the practical and financial
20 reasons why they wish to continue, and I think
21 the aspect of the expertise of the fire chiefs
22 should count for quite a bit in determining if
23 that's appropriate. What happened is because of
24 the delay, the fire district, which I might say,
25 as a quick side, there are two fire districts in

1 this state in my mind. Don Hubert and Bill
2 Cramer.

3 And yes, they're not attorneys, but
4 both of them support this project. It's clear,
5 and I think that should count for something
6 because, again, of the delay in knowing there
7 were issues. I met with the director on several
8 occasions. I offered a lot of what I thought was
9 the rationale for allowing this to proceed, to at
10 least an application to be heard by the Finance
11 Board for hopeful positive findings, but whether
12 it be positive or negative findings.

13 We then felt again because of the
14 crucialness of the project, fine, we had capital
15 monies, the district did, that they did not wish
16 to utilize for this project, but we said, fine,
17 we propose amending the budget. That was also,
18 as the director indicated, something that the
19 director would not approve based on the Attorney
20 General's office. The Attorney General's
21 opinion, what we have been told, is that
22 inconclusive fashion, we don't think it complies
23 with the statute.

24 I have no analysis of the arguments
25 I've made. I have no one who has told us the

1 arguments we raised are inappropriate or invalid.
2 I have no basis, as I sit here today, to tell you
3 what the Attorney General's opinion is based on,
4 whether they even analyzed what I presented. I
5 asked for the Attorney General's opinion in
6 writing on more than one occasion. I did not get
7 it.

8 I asked for a sit down with the
9 Attorney General's office hoping that that
10 dialogue would either convince me I was wrong,
11 which I don't think I am, or at least give me a
12 feel of what arguments I could counter and what
13 additional facts perhaps that I had that I could
14 present that would convince the Attorney General.
15 I know for a fact that your two fire experts in
16 this state had asked to be part of the process
17 and my understanding is were not.

18 So we requested to amend the budget
19 and what, to me, to be blunt is most galling and
20 most inappropriate. I happen to represent fire
21 district two in Toms River. I also represent the
22 Joint Board. Toms River has a fire training
23 facility, and I know some of you are from the
24 area. Let me describe the facility. It's a free
25 standing burn building next to a recycling center

1 with a classroom on site. They cannot make the
2 factual argument that I've made that we are
3 physically connected to a fire house when first
4 constructed.

5 They have no such ability to make
6 the factual argument that I think indicates
7 statutory compliance. When fire districts one
8 and two separately submitted their budget to the
9 division, those budgets, and I attached these as
10 exhibits, clearly identified burn building. So
11 with the issue that came up with Cherry Hill in
12 November, prior to the submittal of those
13 budgets, those budgets were approved, so here I
14 have a situation where I don't know how --
15 they're wonderful projects.

16 It's a wonderful fire training
17 academy. It's utilized by both the fire
18 districts and other districts and companies in
19 the area, notwithstanding the fact that there is
20 a county training facility in Waretown, but for
21 many reasons of those fire districts and fire
22 companies in Ocean County, they chose not to use
23 that, they use that facility.

24 So I have a situation where those
25 districts, where they clearly identified in the

1 budget that they were burn buildings, that got
2 approved, but Cherry Hill can't. I call that
3 arbitrary, capricious and unreasonable. There is
4 absolutely no rationale. That AG's opinion, or
5 at least certainly the inquiry that had gone on,
6 was out there at the time those budgets were
7 approved, so all I ever ask for is consistency.

8 I've appeared before this Board on
9 numerous occasions. I've never made a speechless
10 application. I never would. I think there is
11 enough there. I said to the director, I'm
12 honestly not sure why you need an Attorney
13 General's opinion. If you take the facts as I
14 presented them, those facts clearly support that
15 the statute has been complied with, and that this
16 district has the ability to do what they're
17 doing, and I have to reiterate, this is a
18 replacement.

19 This is a facility that's been there
20 since '73. This is not a brand new structure
21 where perhaps we could have all kinds of
22 collateral arguments. I honestly think the
23 record supports the ability of the district to do
24 this and I have to tell you one of the issues we
25 talked about, it's not just Cherry Hill. There

1 are other fire districts in Ocean County that
2 have free standing fire facilities. There are
3 other fire districts that have office buildings
4 and so forth.

5 Under the interpretation of this
6 statute, all of those projects are illegal, so my
7 question was, great, well, if they're illegal,
8 what do I do going forward? Do I not pay the
9 expenses and costs related to that? And if the
10 answer is, well, I didn't have an AG's opinion at
11 the time and maybe that's the defense, I
12 question, again, what AG's opinion do I have now?
13 I'm of the opinion, and I don't mean to discredit
14 the Attorney General's office or anyone else
15 involved.

16 But is this a case where someone
17 looked at the statute and said the word burn
18 building doesn't appear? Because in all the
19 years I've appeared here, in this particular
20 case, I honestly made a mistake. When I came to
21 the Finance Board, I should have said, based on
22 what I told you factually, by the way, this is a
23 renovation of a fire house because that's
24 essentially, that's what it was. It was taking a
25 piece of the fire house, replacing it, and the

1 only distinction was it wasn't physically
2 connected.

3 That is not enough of a distinction
4 to say it was constructed, it wasn't part of the
5 fire house. Is it the job of the Attorney
6 General to look at the facts that I presented and
7 analyze those? I don't think so. The role of
8 the Attorney General is to look at the statutory
9 construction and argument. That's my third
10 argument.

11 I've given you two other arguments
12 on top of that which I think are convincing, and
13 honestly, we need this project, and all it's
14 doing is putting the public at risk, putting the
15 fire service at risk. Training, as you all know,
16 is crucial. I don't want to be the person who
17 looks at someone, nor does the district or their
18 personnel or their chiefs, and say, by the way,
19 someone up there in Trenton, with all due
20 respect, placed their judgment above yours, even
21 though you have long standing fire expertise that
22 you've presented which you think is appropriate
23 and you feel that you've justified it, by the
24 way, that doesn't matter.

25 One more point. It's always been

1 crucial to this Finance Board that we have voter
2 approval. We have voter approval and I always
3 thought that counted for a lot. Because whether
4 you thought that was a legitimate project or not,
5 it was phrased and presented to the public in
6 exactly the fashion it was approved. They knew
7 what they were voting on.

8 They approved it, so for all those
9 reasons, and by the way, I have a myriad of
10 attachments, and some of the attachments go
11 further into some of the analysis and arguments,
12 but honestly, I think you have every right and
13 every basis to overturn the Director, who I have
14 the highest respect for, and in this particular
15 case authorize us to proceed. Thank you.

16 MR. LIGHT: Did you have other
17 members that are at the dais here?

18 MR. BRASLOW: I think Chief Kolbe
19 would like to make a statement, and I think there
20 are some other individuals here who would like to
21 speak.

22 MR. KOLBE: Thank you very much for
23 having the opportunity to speak today. I
24 submitted a six page document that was part of
25 the brief that was prepared for your review prior

1 to today. I would just like to reemphasize the
2 fact that Cherry Hill is a community of 71,000
3 plus residents. We have trans population of
4 250,000 people daily. We're in an urban area
5 with property value at six point billion dollars.

6 This project before you is a
7 practical request that meets the standards of New
8 Jersey law and regulations and was well thought
9 out through a strategic planning process and
10 meets the needs of an organization of our size
11 and operation. Taking into account the level of
12 service we provide, not only to our community,
13 but the community surrounding Cherry Hill.

14 As I discussed, this is not a new
15 project. It's a replacement project that
16 provides a source of training for Cherry Hill
17 firefighters that has been in existence since
18 1973, as Attorney Braslow mentioned. The
19 proposed training building will be state of the
20 art construction using heavy gauge engineering
21 panels, hot dipped galvanized steel, concrete
22 flooring, super Padgenite wall liners.

23 There is a conservative life
24 expectancy of over 30 years here on this new
25 building. I gave you an analysis at November

1 12th of the cost. It cost us \$10,500 to go to
2 Burlington County Fire Academy to do three days
3 of training to train our staff on one technique.
4 If we were to take 10 of those training projects
5 and put them in a year, it will cost the district
6 \$105,000 to go the Burlington County Fire Academy
7 only 10 times.

8 I can do more than 10 times at my
9 site in Cherry Hill. If we spread that out over
10 30 years of the 30 years expectancy of this
11 project, we're talking over 3 million dollars it
12 would cost the fire district to go to Burlington
13 County Fire Academy. In professional
14 firefighting, preparation efficiency is success
15 in safety of firefighters and civilians.

16 Readiness, commitment, personal
17 accountability and situational awareness are the
18 keys to consistent performance and are the
19 hallmarks for competitive training. Our mission
20 is dynamic with split second decision making
21 required. Job tasks have to be second nature.
22 Complacency has to be nonexistent. All of this
23 is expected from the public that we serve.

24 When a group of mayors, people,
25 citizens committee was asked in a questionnaire

1 what they expected of Cherry Hill Fire
2 Department, their response was professionalism,
3 well trained professionals, personnel and
4 expertise. That's what the qualities of this
5 project do for us. Cherry Hill Fire Department
6 takes pride in providing professional
7 organization to the taxpayers, not only Cherry
8 Hill, but the state of New Jersey.

9 We have worked hard to establish a
10 fire service best practice and ISO classification
11 two. We're Moody's double A financial rating and
12 we've taken on an accreditation process by the
13 Commission on Fire Accreditation International to
14 prove that we do best serve best practices. Both
15 of these agencies emphasize ability for a fire
16 department to have live fire training and other
17 training for the firefighters to do drill towers,
18 burn buildings and smoke buildings.

19 I would strongly urge that you
20 approve this project for, not only the betterment
21 of Cherry Hill Township, its firefighters and the
22 residents, but also the fire service in this
23 region and the state. Thank you very much.

24 MR. LIGHT: The burn building that
25 was the original was attached to the fire

1 training; is that correct?

2 MR. KOLBE: We had a six story tower
3 that was attached to the fire house, but we also
4 had stand alone burn buildings away from the fire
5 house on our fire department complex.

6 MR. LIGHT: And the application
7 would be to remove all of those and build a new
8 burn facility 100 yards away from the fire
9 training?

10 MR. KOLBE: Well, since we had an
11 engineer analysis done that these buildings
12 weren't safe, we were proactive and had those
13 buildings demolished already in preparation for
14 this project.

15 MR. LIGHT: So you are going to the
16 county?

17 MR. KOLBE: We've had to go to a
18 county and I can't do it. It's 25 miles away.
19 It costs me overtime. It's not practical.

20 MR. LIGHT: Thank you, sir. Any of
21 your other people have anything they want to say?

22 MR. BRASLOW: No, just that if you
23 have any questions or any clarification either
24 about the submittals --

25 MR. BLEE: I have a question for the

1 Chief. I guess I'm slightly confused. You go
2 for your training to Burlington County as opposed
3 to -- because doesn't Camden County have a
4 facility?

5 MR. KOLBE: Camden County. It's
6 actually harder to get to than Burlington County.
7 Burlington County has a high rise tower. Camden
8 County does not. And again, actually, the costs
9 associated with going to Camden County are higher
10 than going to Burlington County, so if we were to
11 choose Camden County, we would be paying more
12 money for a taxpayer to go to Camden County Fire
13 Academy versus going to Burlington County Fire
14 Academy.

15 And the limited time that we can go
16 there, we can't achieve the goals that we would
17 need to achieve. I can't send two engines and a
18 ladder. I can't send 12 firefighters out of town
19 and back fill with overtime. It's just not
20 practical.

21 MR. BLEE: Okay. I don't want to
22 start a turf war. Just following up,
23 typically --

24 MR. KOLBE: We've had our own
25 training site for so many years, we really never

1 used the other facilities.

2 MR. BLEE: If we were going
3 statewide, do you not normally support your own
4 county?

5 MR. BRASLOW: Honestly, it's not
6 unusual, and step yourself outside of the
7 districts. Why do all the municipalities have
8 their own fire training facilities? And I think
9 Ocean County is a pure example. They put the
10 fire training center in Waretown. Do you know
11 how that inconvenient that is for all the fire
12 departments and all the districts? That's just
13 one example.

14 Toms River, not only does the
15 training for their own personnel, other fire
16 districts and companies constantly ask to train
17 and drill there. These county training
18 facilities, it is not uncommon that they're not
19 used. Many times they are. I'm all over the
20 state, I've been doing this a long time, and I
21 will tell you a lot of them make no sense because
22 when they're put in, either the location doesn't
23 work, the distance, the difficulty in getting
24 there, it's not an uncommon issue so that would
25 be my answer and it's not just limited.

1 Here is one example. Ocean County,
2 you could probably get every Ocean County Fire
3 District in here and they'll tell you the same
4 thing. Again, why we have what we do in Toms
5 River, and as you know yourself, training is
6 crucial, and if I can carry on for a second, you
7 know, I think -- I just want to reiterate
8 something.

9 There is two points. I think you
10 have a factual basis, as I said earlier, to make
11 this determination. If down the road you have a
12 different battle, so be it, but on this
13 particular instance, the facts, I believe,
14 clearly allow you to make the conclusion that the
15 statute is complied with and we either have a
16 right to proceed with Finance Board application
17 and or amending a budget, whatever option is
18 available, and the other thing is, and I go back
19 to the Attorney General's office, you have to
20 understand how difficult a process this has been.

21 I know this isn't a court of law, me
22 going to a judge, and I go, you know, Judge, I
23 filed a motion, and the judge comes out on the
24 bench and the judge goes to me, Mr. Braslow, your
25 motion is denied. I'm not really going to tell

1 you why. I'm just going to tell you, I don't
2 think you complied with the statute. Well,
3 Judge, am I entitled to an explanation? Do I
4 know what the issues are, the difficulties?

5 That's essentially what I have here.
6 I'm fighting against an opinion which I've never
7 seen and I've never heard of and I have no
8 particulars on.

9 MR. LIGHT: Chief, did you finish
10 what you were saying?

11 MR. KOLBE: Yes, I did.

12 MR. LIGHT: Any other commissioners?
13 Are you a commissioner also? What is your
14 position?

15 MR. CALLAN: Assistant fire chief.

16 MR. LIGHT: You are the
17 commissioner?

18 MS. MONTANA: I'm the commissioner.

19 MR. LIGHT: Does the assistant fire
20 chief --

21 MR. BRASLOW: They're here for
22 support.

23 MR. LIGHT: I kind of guessed that.
24 There is very few of us. Do we have any
25 questions?

1 MR. AVERY: I have a question and
2 maybe a comment. Because Mr. Braslow twice used
3 Ocean County as an example, and I happened to
4 have been the person overseeing the construction
5 of that facility, the programming and the
6 planning.

7 MR. BRASLOW: I mean no insult, by
8 the way.

9 MR. AVERY: And Ocean County is a
10 very large county, geographically. That facility
11 is in the center of the county. It's not next to
12 Toms River. It's not next to Little A, but it is
13 convenient to as many people as we could make it,
14 and we spent 18 months with a joint task force
15 picking the site, programming the buildings and
16 constructing the facility.

17 MR. BRASLOW: I have to say, I never
18 meant that as a criticism.

19 MR. AVERY: You said it twice. I
20 thought I would put it on the record.

21 MR. BRASLOW: I just have to tell
22 you, I'm just the messenger.

23 MR. AVERY: I do have a question.
24 Because of my previous involvement in the
25 training center issue, I'm aware that there are a

1 number of training centers, municipal fire
2 district training centers around the state, and
3 what I'm hearing is that they can't be supported
4 either by district. The continued operations of
5 those training centers can't be supported by
6 district funds, or they can't be constructed by
7 district funds? That's the question I don't know
8 the answer to.

9 MR. LIGHT: I'm not sure. According
10 to what I see here, they can be constructed by
11 district funds. I'm not sure about the supported
12 by the district funds. And I don't know, Mr.
13 Braslow, do you have a comment on that?

14 MR. BRASLOW: Well, here is the
15 comment, to be blunt, that we have to address
16 going forward. If you should reach the
17 determination that this, or any facility like
18 this, or any of the other facilities that I've
19 described, are not permissible capital projects,
20 how do you -- and how is it DCA kept approving
21 the budget for training, expenses, et cetera?
22 What do you do funding these projects going
23 forward? And there's a myriad of them. There is
24 fire academies, there is office buildings, things
25 that you might argue are outside the statute.

1 MR. AVERY: That is my real question
2 because the reality is that in New Jersey, the
3 training has to continue to support the volunteer
4 and paid firemen. Could I hear maybe from our
5 counsel? If the ongoing operation of existing
6 training facilities is allowed under using
7 district funds? Is that what my understanding --

8 MS. WALTER: We're not permitted to
9 give advice on the record. If you wish to go
10 into executive session to discuss, we can
11 certainly do that.

12 MR. AVERY: Thank you.

13 MR. BRASLOW: I couldn't hear a word
14 she said.

15 MR. AVERY: She said she's not
16 allowed to give advice on the record.

17 MR. LIGHT: We may want an executive
18 session. Let me hold that. We haven't answered
19 your question, Mr. Avery. We may go into an
20 executive session after we're finished with the
21 testimony and get that advice. Frank, do you
22 have any other questions? At this point in time,
23 I'm going to ask if you would step down because
24 there may be members -- you have no other people
25 that you wanted to testify on your behalf; is

1 that correct?

2 MR. BRASLOW: No.

3 MR. LIGHT: Director, you made a
4 statement before. Did you have any other
5 information or statement that you wanted to make
6 at this time, or did you cover it with your
7 prelude before you left?

8 MR. CUNNINGHAM: I best not, Mr.
9 Light. I'm fine. Thank you.

10 MR. LIGHT: If you wouldn't mind
11 stepping down for a moment. I don't know if
12 anybody wishes to be heard.

13 (At which time the witness was sworn in.)

14 MR. WALLING: I'm Oliver Walling.
15 I'm a CPA. I represent currently 26 fire
16 districts and Cherry Hill is not one of them. So
17 my concern is not with Cherry Hill today. My
18 concern is with the 26 fire districts that I do
19 represent. The decision today, a no decision
20 today that what you're saying is that only fire
21 houses which house fire equipment are permitted
22 to be supported, purchased and supported by
23 property tax dollars.

24 So if you say no to Cherry Hill
25 today, I have to go back to my fire districts and

1 say you cannot spend another dime on your office
2 building, on your training center. Otherwise,
3 the auditor is going to write you up for improper
4 or possibly illegal use of tax dollars. So what
5 I'm seeing today is, I'm not an attorney, so I
6 don't know. I rely on consistency, what the DCA
7 and the division do last year, I'm going to do
8 everything I can to comply with my 30 years
9 experience with the department.

10 So if you say no today, then I have
11 to tell my fire districts that they have to stop
12 supporting. They have to close their doors,
13 their offices, their training centers because
14 what they're doing is illegal. Because in
15 effect, this Board is defining what a fire house
16 is. I think it needs to be legislative, but
17 certainly, a no vote today is going to be
18 defining what a fire house is.

19 MR. LIGHT: Anyone have any
20 questions of Mr. Walling?

21 MR. WALLING: Thank you.

22 MR. LIGHT: Thank you very much. Is
23 there anyone else in the audience that wanted to
24 make any comments? I guess not.

25 MR. BLEE: Chairman, I think in

1 light of new testimony that we're hearing for the
2 first time and excellent and compelling
3 arguments, that I think we need to do further
4 research. I would make a motion that we table
5 this to the next meeting.

6 MR. AVERY: Second.

7 MR. LIGHT: We have a motion and a
8 second to table. Obviously, I don't have to
9 guess what the outcome is going to be, since
10 there is only three, but is there any other
11 comments before we do that? I know the motion is
12 on the table, so I hope there isn't. I think we
13 understand, and we do need some further legal
14 advice because there have been some questions
15 that have come up that you're taking copious
16 notes on, so if there is anything else that needs
17 to be presented to us today, please do that.

18 Otherwise, we will have a motion to
19 table and we'll have this on the agenda on the
20 next month's meeting. Nothing? All right then.
21 Would you call the roll on the motion to table,
22 please.

23 MS. MCNAMARA: Mr. Avery?

24 MR. AVERY: Yes.

25 MS. MCNAMARA: Mr. Blee?

1 MR. BLEE: Yes.

2 MS. MCNAMARA: Mr. Light?

3 MR. LIGHT: Yes. Thank you for your
4 time for coming down, your presentation. You
5 want to make something on the record?

6 MR. BRASLOW: Just clarification
7 going forward. If we can be of any further
8 assistance, if I can have dialogue with the
9 Attorney General's office to help. I always said
10 I'd love to have that. And the other issue is
11 because of the significance of this, you know,
12 that might be appropriate and I'm probably going
13 to be here next meeting anyway because I should
14 have some other applications, but do I make it my
15 point to make it this next meeting?

16 MR. LIGHT: I would say yes because
17 I would expect this will be on the agenda the
18 next meeting. At this present time we will plan
19 to have it on the agenda. If there is some
20 difficulty with the Attorney General's office of
21 not being able to provide that advice in the time
22 limit, we would let you know.

23 MR. BRASLOW: Okay. Thank you very
24 much.

25 MR. LIGHT: Do we have anything

1 else? No other comments, then we'll have a
2 motion to adjourn.

3 MR. AVERY: So moved.

4 MS. MCNAMARA: All ayes?

5 BOARD MEMBERS: Aye.

6 MR. LIGHT: We are adjourned.

7 (Hearing concluded at 12:41 p.m.)
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1 C E R T I F I C A T E .

2

3 I, LAUREN ETIER, a Certified Court
4 Reporter, License No. XI 02211, and Notary Public
5 of the State of New Jersey, that the foregoing is
6 a true and accurate transcript of the testimony
7 as taken stenographically by and before me at the
8 time, place and on the date hereinbefore set
9 forth.

10 I DO FURTHER CERTIFY that I am neither a
11 relative nor employee nor attorney nor council of
12 any of the parties to this action, and that I am
13 neither a relative nor employee of such attorney
14 or council, and that I am not financially
15 interested in the action.

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Lauren M. Etier



23

Notary Public of the State of New Jersey

24

My Commission Expires June 14, 2016

25

Dated: April 28, 2016

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