

1 STATE OF NEW JERSEY  
2 DEPARTMENT OF COMMUNITY AFFAIRS  
3 LOCAL FINANCE BOARD

4 MONTHLY MEETING AGENDA \*

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8 Conference Room No. 129  
9 101 South Broad Street  
10 Trenton, New Jersey  
11 Wednesday, January 15, 2014

12 B E F O R E: THOMAS NEFF-CHAIRMAN  
13 IDIDA RODRIGUEZ-MEMBER  
14 JAIME FOX-MEMBER  
15 ALAN AVERY-MEMBER  
16 TED LIGHT-MEMBER  
17 FRANCIS BLEE-MEMBER

18 ALSO PRESENT:  
19 PATRICIA MC NAMARA-EXECUTIVE  
20 SECRETARY  
21 EMMA SALAY-DEPUTY EXECUTIVE SECRETARY

22 A P P E A R A N C E S:

23 JOHN J. HOFFMAN,ESQ.  
24 ATTORNEY GENERAL  
25 BY: PATRICIA STERN,  
26 Deputy Attorney General  
27 For the Board

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23 STATE SHORTHAND REPORTING SERVICE, INC.

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1 (Transcript of proceedings, January  
2 15th, 2014, commencing at 10:40 a.m.).

3 MR. NEFF: We're go going to  
4 continue the public portion of the Finance Board  
5 meeting. The first item on the agenda is one  
6 consent item. That's for the Jersey City  
7 Municipal Utilities Authority. So Jersey City  
8 Municipal Utilities Authority, \$30 million,  
9 Proposed Environmental Infrastructure Trust Loan  
10 Program, Proposed Project Financing.

11 It is listed as a consent item, but  
12 the Authority still hasn't provided us with  
13 certain documentation that they are supposed to  
14 provide us with, namely a response to a  
15 questionnaire about some of their financial  
16 practices. So I would make a separate motion for a  
17 consent item, that we approve it contingent on  
18 them providing us with the questionnaire that they  
19 are supposed to be providing to the Board staff to  
20 review these matters. We carved it out separately  
21 from the other consent items which would be done  
22 on consent.

- 23 Any other questions?
- 24 MR. AVERY: So moved.
- 25 MR. NEFF: Jersey City Municipal

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1 Utilities Authority, \$30 million Proposed EIT  
2 Project Financing. Motion contingent on receiving  
3 the documentation.

4 MR. AVERY: Moved.

5 MR. NEFF: I'll second it. Roll  
6 call.

7 MS. MC NAMARA: Mr. Neff?

8 MR. NEFF: Yes.

9 MS. MC NAMARA: Mr. Avery?

10 MR. AVERY: Yes.

11 MS. MC NAMARA: Ms. Rodriguez?

12 MS. RODRIGUEZ: Yes.

13 MS. MC NAMARA: Mr. Blee?

14 MR. BLEE: Yes.

15 MS. MC NAMARA: Mr. Fox?

16 MR. FOX: Recusing myself.

17 MS. MC NAMARA: Mr. Light?

18 MR. LIGHT: Yes.

19 MR. NEFF: Next up we have five

20 consent items: Long Beach Township, \$7.54 million

21 Proposed EIT Loan Program, Proposed Nonconforming

22 Maturity Schedule; Merchantville-Pennsauken Water

- 23 Commission, \$2.8 million Proposed EIT Program and
- 24 Proposed Project Financing; Willingboro Municipal
- 25 Utilities Authority, \$5 million Proposed EIT and

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1 Project Financing; South Monmouth Regional  
2 Sewerage Authority, \$7 million Proposed EIT  
3 program and Project Financing.

4 We have an addition to the agenda  
5 which was Palmyra Environmental Infrastructure  
6 Trust, \$4,529,000 for a Loan Program,  
7 Nonconforming Maturity Schedule and Waiver of Down  
8 Payment, take a motion on those five consent items.

9 MR. BLEE: Motion.

10 MS. RODRIGUEZ: Second.

11 MS. MC NAMARA: Mr. Neff?

12 MR. NEFF: Yes.

13 MS. MC NAMARA: Mr. Avery?

14 MR. AVERY: Yes.

15 MS. MC NAMARA: Ms. Rodriguez?

16 MS. RODRIGUEZ: Yes.

17 MS. MC NAMARA: MR. Blee?

18 MR. BLEE: Yes.

19 MS. MC NAMARA: Mr. Fox?

20 MR. FOX: Yes.

21 MS. MC NAMARA: Mr. Light?

22 MR. LIGHT: Yes.

23 MR. NEFF: Next up we have Harrison

24 Township, Fire District Number 1, \$220,000

25 Proposed Project Financing.

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1           (Michael Koestler, David Rollison,  
2 being first duly sworn according to law, testifies  
3 under oath as follows:

4           MR. KOESTLER: Michael Koestler,  
5 K-o-e-s-t-l-e-r.

6           MR. ROLLISON: My name is David  
7 Rollison, Bowman & Company, R-o-l-l-i-s-o-n.

8           MR. NEFF: If I could just say  
9 something before you start. Our staff had  
10 reviewed this, basically found everything to be in  
11 order. I don't anticipate any serious concerns at  
12 this time. I just wanted to preface that if you  
13 don't feel the need, but go ahead.

14           MR. ROLLISON: I guess, Mr.  
15 Chairman, we just want to have the approval. The  
16 way I understand, Mr. Don Huber who examined our  
17 application said everything was fine. There are  
18 two pieces to our application. One is a 3,000  
19 gallon tender truck which I hope meets with your  
20 approval. The other one is the installation is  
21 the installation of a solar panel for \$240,000.

22           Mr. Huber explained to us-- we're

23 still in the preliminary phases with our engineer.

24 That hasn't gone out to bid yet. He said we

25 should get some direction from you folks whether

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1 we should come back and use the same application  
2 or just update it.

3 MR. NEFF: We wouldn't just add the  
4 \$220,000. The solar panels aren't even being  
5 considered today. We can have a discussion as to  
6 what's needed, so we can get on the agenda at some  
7 point.

8 As to the purchase of the truck, I  
9 really only had one question. That was, it was  
10 approved in 2008 by a very narrow vote, 106 yes  
11 to 96 no. What attributed to the delay in  
12 purchasing the trucks since 2008?

13 MR. ROLLISON: I think the tender  
14 truck was February 16th, 2013. The solar panels  
15 were on February 16th of 2008.

16 MR. NEFF: Okay, all right. I stand  
17 corrected.

18 MR. KOESTLER: That's correct.

19 MR. NEFF: We'll discuss the solar  
20 issue with you at a different time.

21 MR. ROLLISON: Once we come to the  
22 bidding process then we should come back and seek

23 your approval then.

24 MR. NEFF: We can setup a time to

25 talk off-line, maybe just by phone, to discuss the

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1 solar project and what any issues may be. So we  
2 can try and hash them out before it comes back to  
3 the Board.

4 MR. ROLLISON: Thank you.

5 MR. NEFF: Anybody else with  
6 questions on the truck, \$220,000 ten year  
7 maturity.

8 MR. LIGHT: I move the application  
9 for approval.

10 MR. BLEE: Second.

11 MR. NEFF: Take a roll call.

12 MS. MC NAMARA: Mr. Neff?

13 MR. NEFF: Yes.

14 MS. MC NAMARA: Mr. Avery?

15 MR. AVERY: Yes.

16 MS. MC NAMARA: Ms. Rodriguez?

17 MS. RODRIGUEZ: Yes.

18 MS. MC NA MARA: Mr. Blee?

19 MR. BLEE: Yes.

20 MS. MC NAMARA: Mr. Fox?

21 MR. FOX: Yes.

22 MS. MC NAMARA: Mr. Light?

- 23 MR. LIGHT: Yes.
- 24 MR. ROLLISON: Thank you.
- 25 MR. NEFF: Next up is Washington

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1 Township, Fire District Number 1, \$475,000  
2 Proposed Project Financing.

3 (Everett John Hoffman, being first  
4 duly sworn according to law by the Notary)

5 MR. HOFFMAN: My name is Everett  
6 John Hoffman. I'm the District Fire Chief,  
7 Washington Township, Gloucester County.

8 MR. NEFF: If you want to give us a  
9 one or two minute overview of the purchase?

10 MR. HOFFMAN: Yes, sir. The  
11 purchase is a replacement of a piece of fire  
12 apparatus within the department. We are a rather  
13 large fire district, one of the larger,  
14 municipalities, especially for the south end of  
15 the state.

16 We typically do an apparatus  
17 replacement for our fleet every year or every  
18 other year on a revolving basis. We work off a  
19 twenty year long term planning schedule for the  
20 replacement of our apparatus. This is one of  
21 those pieces of apparatus that's in that  
22 replacement process.

23           The bid price on the apparatus was  
24 about \$470,000 and change. We are doing a lease  
25 purchase project at \$475,000 with a five year

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1 payment plan schedule for the piece.

2 MR. NEFF: Okay. Just a couple of  
3 quick questions. One, the request is \$475,000 but  
4 the truck price is \$466,972,000, what's the other?

5 MR. HOFFMAN: There were several  
6 options that were offered in the bid package. One  
7 of those included the air bag system in the cab of  
8 the apparatus. We elected to take that option  
9 that was proposed to us.

10 And there were a couple of little  
11 other items that were listed that we ended up  
12 doing some change orders on in the process of the  
13 pre-construction meeting on the apparatus.

14 MR. NEFF: When the bid packages  
15 were sent out to potential bidders, it is my  
16 understanding they only went to two vendors. Why  
17 only two vendors?

18 MR. HOFFMAN: We contacted several  
19 more vendors, more than just those two. The two  
20 vendors that actually picked up packages were Meal  
21 Fire Apparatus. They have a dealership in  
22 Manasquan and Kimball Supply is Patten ERR or

23 formerly Crimson. They are based in Plainfield or

24 North Plainfield, New Jersey.

25 That was the other vendor that

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1 actually picked up packages. But KME was one of  
2 the contacts that we made as well as Finley Fire  
3 Apparatus. Both of those companies, in addition  
4 to Smeal and Crimson, had looked at-- picked up  
5 packages from our department in the past. We made  
6 sure they were aware.

7 MR. NEFF: You made efforts to find  
8 other potential bidders?

9 MR. HOFFMAN: Absolutely, yes.

10 MR. NEFF: They picked up bid  
11 packages?

12 Mr. HOFFMAN: I was surprised KME  
13 didn't bid.

14 MR. NEFF: The two bids that did  
15 come in, you have went with a higher dollar bid  
16 presumably because and there was some sort of  
17 difference in the warranties that were offered?

18 MR. HOFFMAN: There were a couple  
19 of things that were different. One of the things  
20 was the warranty that was different. The other  
21 bidder was about \$1,800 less. Smeal was about  
22 \$1,800 less on the process. And the Smeal Company

23 would not offer-- we had it built into our  
24 specifications, a five year bumper to bumper  
25 warranty.

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1           Several components of fire  
2 apparatus, as you may know, have different levels  
3 of warranties. The engine is maybe a year or two  
4 years. The tank is sometimes a lifetime. The  
5 pumps are ten years. The paint has a different  
6 time schedule. What you are looking for in this  
7 particular engine, which happens to be a very,  
8 very busy piece in our department. We want it to  
9 be a five year bumper to bumper. The light bulb  
10 goes out somewhere, that that's being covered.

11           We went back after the bids were  
12 received and asked Smeal if they were offering  
13 that? They flatly denied to offer a five year  
14 bumper to bumper warranty as part of their  
15 package. They said it is what it is as it is  
16 listed in their specs. There were some things  
17 that were one year, there were some things that  
18 were two years.

19           A lot much things were parallel,  
20 but they would not offer the five year bumper to  
21 bumper. We went back to Crimson. Basically it's  
22 ARV, that's the new company. They indicated that

23 five year bumper to bumper had about a \$10,000  
24 value. We could see that, that's very  
25 understandable.

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1 MR. NEFF: Actually, just correct  
2 me if I'm wrong, but the staff notes suggested  
3 there is a \$452,000 bid proposal for Smeal  
4 \$466,000 for Crimson. It is a \$14,000 difference?

5 MR. HOFFMAN: That didn't include  
6 the advanced air bag system or some of the other  
7 options that were listed in the package.

8 When we compared apples to apples,  
9 the numbers were about \$1,800 a part.

10 MR. NEFF: When the bid specs went  
11 out, what did they require by way of warranty?

12 MR. HOFFMAN: They required and I  
13 have that documentation, it was said without  
14 exception we want the five year bumper to bumper  
15 warranty, in addition to the individual components  
16 that were part of the apparatus. We offered  
17 bidders to offer that as a separate line item if  
18 they wanted to show that, what the value of that  
19 was. They could include it in their purpose  
20 price.

21 Smeal elected not to do that at  
22 all.

23 MR. LIGHT: Technically then they  
24 didn't meet the specifications then as you bid  
25 them?

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1           MR. HOFFMAN: That's correct. We  
2 were torn about it, you know. And ironically  
3 Smeal, by consent a couple of months ago this body  
4 approved a Smeal apparatus, an aerial apparatus  
5 that we acquired from them. Which was kind of odd  
6 that they wouldn't have worked on an engine to  
7 come up with this for us on this bid spec, but  
8 they didn't do that.

9           MR. NEFF: I'm interested to hear  
10 if Ted has thoughts on this? My inclination is to  
11 approve the financing for this, but without-- you  
12 know, without making references to anything to do  
13 with the bid process here or whether there may or  
14 may not have been a flaw in it. If you want to go  
15 ahead with financing the truck, the difference  
16 between the two bids was pretty narrow. It is not  
17 something that I want to make a capital offense  
18 out of.

19           But, you know, I just want it to be  
20 clear that we're not-- that this Board, we approve  
21 the financing of these purchases. We don't  
22 necessarily approve or disapprove of the actual

23 bidding process itself. There may be an issue

24 here, there may not be one.

25 MR. LIGHT: I don't think there is.

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1 I think it adds to support what they have done,  
2 the fact that it didn't technically meet the  
3 specifications that were bid.

4 MR. NEFF: Okay. Well, I guess my  
5 inclination is to support this and move on.

6 We notice that you have a web site  
7 that's compliant with the law, but for one issue.  
8 Where, if you try and access the budget for the  
9 fire district, it says that the budget is not  
10 accessible, the 2013 budget.

11 MR. HOFFMAN: We found that out  
12 yesterday, the 2013 budget. Apparently that file  
13 corrupted. Today we are working on having that  
14 cleared out and then re-inserted. That's the 2013  
15 budget. The 2014 budget is accessible on the web  
16 site.

17 MR. NEFF: Our web site is full of  
18 things like that. I wanted to bring it up for the  
19 record, to make sure it is fixed.

20 MR. LIGHT: When you say  
21 corrupted--

22 MR. HOFFMAN: Let me explain. I

23 don't know another term for it. I mean, it is a  
24 computer term. The computer term "corrupted", not  
25 that the budget is corrupted.

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1 MR. NEFF: Got it.

2 MR. HOFFMAN: The PDF is being  
3 re-inserted with the 2013 budget.

4 MR. NEFF: And the web site needs  
5 to be updated with respect to meeting minutes as  
6 well, I understand, but presumably that will  
7 happen?

8 MR. HOFFMAN: Yes.

9 MR. NEFF: All right. Anybody else  
10 have questions on this one?

11 MR. BLEE: Motion to approve.

12 MR. FOX: Second.

13 MR. NEFF: Roll call.

14 MS. MC NAMARA: Mr. Neff?

15 MR. NEFF: Yes.

16 MS. MC NAMARA: Mr. Avery?

17 MR. AVERY: Yes.

18 MS. MC NAMARA: Ms. Rodriguez?

19 MS. RODRIGUEZ: Yes.

20 MS. MC NAMARA: Mr. Blee?

21 MR. BLEE: Yes.

22 MS. MC NAMARA: Mr. Fox?

23 MR. FOX: Yes.

24 MS. MC NAMARA: Mr. Light?

25 MR. LIGHT: Yes.

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1 MR. NEFF: Next up is Weymouth  
2 Township. Anybody from Weymouth?  
3 (No response).  
4 Okay. Well, while we're on the  
5 record, I am going to discuss this for a minute  
6 without them Weymouth. I don't think we need them  
7 here to vote on this.

8 And Weymouth Township submitted an  
9 application to create a new government agency, new  
10 government authority and they completely botched  
11 the process. The process by which you create an  
12 authority, is the municipality needs to get this  
13 Board's approval before they do it.

14 Weymouth went out and would claim  
15 that they created an authority already. They  
16 adopted an ordinance last year. They held  
17 election, voting for fire commissioners.

18 They submitted and introduced a  
19 budget to the Division to review and realized that  
20 they didn't legally exist. We don't have  
21 authority statutorily to approve this creation of  
22 another government agency. They have completely

23 done it the wrong way.

24 I would make a motion that we deny

25 this application. And apparently they must agree,

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1 because they didn't even bother to come here to  
2 discuss their application. Anybody want to second  
3 that one?

4 MR. AVERY: Second.

5 MR. NEFF: Take a roll call.

6 Ms. Mc NAMARA: Mr. Neff?

7 MR NEFF: No.

8 MR. FOX: The motion is yes to the  
9 motion to deny.

10 MR. NEFF: Yes.

11 MS. MC NAMARA: Mr. Avery?

12 MR. AVERY: Yes.

13 MS. MC NAMARA: Ms. Rodriguez?

14 MS. RODRIGUEZ: Yes

15 MS. MC NAMARA: Mr. Fox?

16 MR. FOX: Yes.

17 MS. MC NAMARA: Mr. Light?

18 MR. LIGHT: Yes.

19 MR. NEFF: Next up we have Brick  
20 Township MUA.

21 (Siamac Afshar, James Lacey, being  
22 first duly sworn according to law by the Notary).

23 MR. AFSHAR: Siamac Afshar,  
24 financial advisors, S-i-a-m-a-c, A-f-s-h-a-r.  
25 MR. LACEY: James Lacey, Executive

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1 Director, Municipal Utilities Authority.

2 MR. EICHENBAUM: Howard Eichenbaum,  
3 attorney with Gluck, Walrath, E-i-c-h-e-n-b-a-u-m.

4 MR. NEFF: If I could set the  
5 context for this before we start. It is not-- it  
6 has become not terribly uncommon for the Board to  
7 receive applications where we don't get a very  
8 thorough explanation of a project with cost  
9 estimates. It is not uncommon at all.

10 In the last few meetings we  
11 actually deferred applications that were submitted  
12 to us without that material. Because one of the  
13 findings that a Board makes is that a project is  
14 reasonable, that the costs are reasonable. We just  
15 didn't have anything in the applications to make  
16 that particular finding today.

17 I would just note, I think two  
18 months ago we deferred an application from another  
19 MU for exactly the same reason. So we won't be  
20 voting today on the application that's before us,  
21 but we'll discuss it today. If there are other  
22 issues other than cost estimates that are of

23 concern, we'll go through them.

24 We would ask that the cost

25 estimates be provided to the Board staff. And

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1 then assuming everything is okay or we work-out  
2 any other issues that may exist, then we can put  
3 the matter up in consent in February, so you  
4 wouldn't have to come down here for another trip.  
5 It will be a technical approval at that point. If  
6 there are no issues with the cost of the project  
7 we'll just move forward. But with that, if you  
8 guys want to discuss the project for the proposed  
9 financing.

10 MR. AFSHAR: Certainly. Again, my  
11 name is Siamac Afshar, financial advisor to the  
12 Utilities Authority. With me is James Lacey,  
13 Executive Director and Howard Eichenbaum, bond  
14 counsel to the Authority.

15 We are seeking approval for the  
16 issuance of not to exceed \$14.5 million in short  
17 term one year bonds, to be issued in one or more  
18 tranches. The notes are to be secured by revenues  
19 of the Authority, primarily a service agreement  
20 with the Township of Brick.

21 MR. NEFF: The first trunch that you  
22 would issue would be based competitively?

23 MR. ASHFAR: Yes. We have  
24 determined that we were going to bid competitively?

25 MR. NEFF: Why the need for two

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1 trunches? Why would you do it twice?

2 MR. ASHFAR: The determination had  
3 been made that about seven and half million  
4 dollars in project needs are needed in the very  
5 short term. And there is an additional eight  
6 million dollars or so which is expected to be  
7 needed within the next eighteen months. But we  
8 don't want to borrow excessive amounts for paying  
9 interest until we need that. But we do expect to  
10 meet that within the year.

11 MR. NEFF: It is just a cash flow  
12 issue of only going out to market and avoiding --

13 MR. ASHFAR: Avoiding paying  
14 interest earlier than we need to.

15 MR. NEFF: The interest payments  
16 that you would pay --if you went out for all of  
17 it, the interest payments that you would pay on  
18 that would out strip the costs of issuance?

19 MR. ASHFAR: Yes.

20 MR. NEFF: What are the proposed  
21 costs of doing two issuances instead of one and  
22 how does that relate to what the interest payments

23 are? According to our records it would cost  
24 \$86,000 for the cost of issuance for the first and  
25 \$67,000 for the second. So presumably the

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1 interest costs of non-issuing, however, of that  
2 second series, would have stripped \$67,000?

3 MR. ASHFAR: Certain of those costs  
4 of issuance that are noted on there, particularly  
5 bond counsel and financial advisor, are a per bond  
6 fee. So really the only fees that are paid twice  
7 are the smaller fees such as printer, trustee, the  
8 \$5,000, \$7,000, not the larger fees. Those larger  
9 fees would be in the first issuance. Regardless  
10 if we did fourteen and a half million, they would  
11 be the sum of the two.

12 MR. NEFF: Okay. Does anybody have  
13 any other questions about that aspect regarding  
14 tranches?

15 (No response).

16 I don't either. Any other-- can  
17 you just describe what the project is for,  
18 generally?

19 MR. LACEY: Mr. Chairman, there is a  
20 whole page that we submitted. There are about  
21 fifty items plus. It is everything from rehab to  
22 generators to pipes to parking lots, to different

- 23 wash basins, closed camera TV at the reservoir,
- 24 water distribution upgrades. We submitted a list
- 25 marked Exhibit A, page fourteen.

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1           MR. NEFF: Okay. I don't have any  
2 other questions. I don't see why this couldn't  
3 move forward on the next meeting. I do want to  
4 give the staff who are doing the cost  
5 cross-reference, a more itemized cost breakdown  
6 that came in on Monday. I know the other Board  
7 members didn't have an opportunity to see it, if  
8 it is consistent with the application. If anybody  
9 has any other questions?

10           MR. LIGHT: One question. For any  
11 projects for the funding, are any conditions that  
12 occurred because of the storm damage or is this  
13 normal?

14           MR. LACEY: Most of that is separate  
15 projects. We haven't borrowed money from FEMA.

16           MR. LIGHT: Is this for operating  
17 projects?

18           MR. LACEY: Yes.

19           MS. RODRIGUEZ: It is like an  
20 upgrade?

21           MR. LACEY: Yes.

22           MR. NEFF: Assuming that the costs

23 come in and look fine, then we would put it on

24 consent in February and you wouldn't have to come

25 back in.

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1 MR. EICHENBAUM: Thank you.

2 MR. NEFF: Belmar Borough is  
3 deferred. They still don't have their audit done  
4 for 2012.

5 Irvington is deferred for the same  
6 reason.

7 Is anybody here from the City of  
8 Newark, the City of Newark?

9 MR. EICHENBAUM: Howard Eichenbaum,  
10 Gluck, Walrath. We had sent an email requesting  
11 both Newark items be deferred.

12 MR. NEFF: I had a discussion with  
13 the City Administrator in Newark. There are two  
14 applications that have come to the Board. They  
15 have been sitting around for, I think three  
16 months. One pertains to permanently financing  
17 some BANs with a nonconforming maturity schedule,  
18 that would allow for a skipped debt service  
19 payment. Which I just--in light of Newark's  
20 finances I can't possibly see us approving until  
21 we have a better handle on what's going on there.

22 E we have a second application

- 23 that's been sitting around for several months.
- 24 Where Newark proposed to borrow against certain
- 25 revenue streams related to car rentals. They want

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1 to borrow \$36 million to give out as grants. They  
2 gave us a list of who might possibly be getting  
3 these grants. They have been unable to respond  
4 for the last three months or provide information  
5 about what process they used to determine who  
6 would be eligible for these grants, what the  
7 program consists of.

8           There is no application or  
9 information that Newark has been able to provide  
10 by way of backing up that particular application.  
11 My recommendation is, if Newark is submitting to  
12 us two applications which they are unable to  
13 actually articulate reasons in public as to why  
14 they need them, they can't provide documentation,  
15 basic documentation how they are going to spend  
16 \$36 million, what the application process is, then  
17 we're not just going to sit around and have  
18 applications that are incomplete in our office.

19           We're going to take definitive  
20 action on them and vote them down. That would be  
21 my recommendation.

22           If the City wants to resubmit these

- 23 applications at this point, they are ready to
- 24 defend them and ready to provide the documentation
- 25 that's necessary to make reasonable decisions on

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1 these things, we'll take them up at a later date.

2 But we need to clear the deck and have these

3 applications--

4 MR. EICHENBAUM: May I respond?

5 MR. NEFF: Fine, have a seat. I

6 apologize for my tone. It's a level of frustration

7 with the City itself, not with you professionally.

8 MR. EICHENBAUM: Understood. Once

9 again, Howard Eichenbaum, Gluck, Walrath, bond

10 counsel to the City of Newark.

11 As to the first application that

12 you mentioned, the one that's a nonconforming

13 maturity schedule, the issuance of capital

14 appreciation bonds, that was basically proposed

15 financing that City had wanted to do in December

16 in in order to level out the debt service. To do

17 that as opposed to some sort of refunding that

18 would have been uneconomic.

19 Because the City wasn't able to get

20 that approved last year, it issued notes instead.

21 It is still something that's being considered.

22 It is because of the fact that we

23 weren't able to do it in December, the earliest we

24 could do it would be in June when the notes

25 mature.

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1           The City basically now has a new  
2 administration. It is reviewing whether it wishes  
3 to particular proceed with that financing or not.  
4 It may not at all. It may continue to roll notes.

5           We're hoping within the next month  
6 we will have the discussion with the City and the  
7 financial advisor to determine if that is the best  
8 course of action or not. It still may be because  
9 it's believed that it would help financially with  
10 the City in the next three or four years.

11           MR. NEFF: Right. So from my  
12 vantage point for that particular application, it  
13 either needs to be withdrawn because it is not  
14 relevant any more, because it was based on  
15 circumstances that may change by the time it comes  
16 back again --it can either be withdrawn or voted  
17 down, one way or the other. Let's clear the decks  
18 of this thing.

19           MR. EICHENBAUM: If the option is  
20 today, sir, to withdraw or vote it down, I will  
21 withdraw.

22           MR. NEFF: If we could get a quick

23 email or something indicating its been withdrawn,

24 it will be so noted.

25           The second application I would not

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1 be amenable to even allowing the City to withdraw  
2 the application. I want a record that the fact of  
3 the matter is this Board received an application  
4 that is woefully inadequate. It does not explain  
5 the process for issuing \$36 million. It does not  
6 explain how this program works.

7 I'm tired of receiving applications  
8 from municipalities, this one in particular, that  
9 just don't have basic information that people need  
10 to assess them. It is not fair to the members of  
11 this Board. It is not fair to the members of the  
12 staff who are given applications that are almost  
13 meaningless. That we waste our time pursuing, you  
14 know, what are these applications really about?

15 I'm tired of it. So I want a  
16 record of this application having been received  
17 with woefully inadequate information based upon  
18 what we can't make a decision. I'm just going to  
19 vote it down.

20 If the City wants to come back in  
21 and make a request and go on record explaining  
22 what's this record about? What's the application

- 23 process? What are the standards to allocate \$36
- 24 million? Why is it that the City can forego
- 25 revenue that would otherwise be available to the

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1 general budget for the purposed of giving out  
2 grants at a time when the City's budget has a \$30  
3 million structured hole in it?

4 MR. EICHENBAUM: Once again, if I  
5 could respond briefly? As to the application  
6 process, the response and the additional  
7 information that you requested, I think we've  
8 explained to you, I think possibly by email as  
9 well as by phone that because of some personnel  
10 changes in the City starting with the Mayor one of  
11 the deputy mayor, several other people, it has  
12 been taking some time to put together information  
13 that you requested.

14 The City is putting together a  
15 response to you with the information that you  
16 requested as to the process, as to each, you know,  
17 potential grantee and so forth. Regrettably, it  
18 is not done. We hoped it would be done. But  
19 because of personnel changes and the holidays  
20 in-between, it wasn't done in time in order to be  
21 present for this meeting.

22 As to the use of the money, you

23 know, the grants basically are pursuant to the  
24 Motor Vehicle Rental Tax Act, which was approved  
25 by the legislature in 2010. The money can only be

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1 used for certain redevelopment type purposes. It  
2 cannot be used to plug holes in the budget. The  
3 legislation would have to change for something  
4 like that to happen.

5 MR. NEFF: I respectfully disagree.  
6 I read the statutes as well. The money can be used  
7 essentially for economic development purposes and  
8 redevelopment projects. Redevelopment projects can  
9 sometimes mean things no more than giving somebody  
10 a grant, which is what this particular proposal is  
11 for. It may mean paying for public safety  
12 expenses, without which and without public safety  
13 being present in Newark there isn't going to be  
14 any economic development.

15 These funds can be used for a  
16 variety of reasons. This isn't the only way  
17 these funds can be used.

18 The application that we have  
19 received contains no information. I've asked for  
20 documentation about what is the program, to  
21 explain it, three months ago. OPRA requires a  
22 response for something like that in seven days.

23 Much less when an agency is actually exercising  
24 oversight over a city like Newark. We should be  
25 getting a response more quickly, instead of an

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1 answer that is not acceptable after a three month  
2 delay in responding to basic information.  
3 Especially when somebody sat down and put together  
4 this application. When this application was put  
5 together it should have contained basic  
6 information that's necessary to make a decision  
7 one way or another whether it is appropriate.

8           Nothing in this application is  
9 awful that it needs to be voted down. But to  
10 send a message that when the City is ready to come  
11 back and ready to explain the program, ready to  
12 give the information in the documents needed to  
13 make a decision, we'll review them and we'll take  
14 up the application at that time. This particular  
15 application is awful and should be voted down.  
16 That's my position.

17           I'm going to make a motion that we  
18 deny the application. If the City wants to  
19 resubmit one with actual documentation based upon  
20 which the Board and the staff can take action  
21 we'll review it, but enough is enough.

22           MR. AVERY: I'll second that, Mr.

23 Chairman.

24 MR. NEFF: We have a motion and a

25 second to deny.

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1 MS. MC NAMARA: Mr. Neff?

2 Mr. Neff: Yep.

3 MS. MC NAMARA: Mr. Avery?

4 MR. AVERY: Yes.

5 MS. MC NAMARA: Ms. Rodriguez?

6 MS. RODRIGUEZ: Yes.

7 MS. MC NAMARA: Mr. Blee?

8 MR. BLEE: Yes.

9 MS. MC NAMARA: Mr. Fox?

10 MR. FOX: Yes.

11 MS. MC NAMARA: Mr. Light?

12 MR. LIGHT: Yes.

13 MR. EICHENBAUM: Thank you. Next

14 up IS Atlantic Highlands Borough/Highlands

15 Borough, Atlantic Highlands/Highlands Regional

16 Sewerage Authority. It's a \$5,646,653 Proposed

17 Dissolution of Regional Sewerage Authority.

18 I think in conjunction with that

19 particular request, we also have a proposed

20 exception to debt limitation from gross debt,

21 \$5,732,572, for Highlands Borough and \$5,290,492

22 for Atlantic Highlands Borough. That was the only

23 change.

24 (Tom Fallon, Rosario Santos, Fred

25 Rast, being first duly sworn according to law by

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1 the Notary).

2 MR. FALLON: Tom Fallon, from Fallon  
3 & Larson, the auditor for Highlands and Atlantic  
4 Highlands.

5 MS. SANTOS: Rosario Santos,  
6 engineer from T&M Associates, representing both  
7 the Borough of Atlantic Highlands and the Borough  
8 of Highlands.

9 MR. DRAIKIWICZ: John Draikiwicz,  
10 Gibbons, PC. We are bond counsel too the Borough  
11 of Atlantic Highlands.

12 MR. JESSUP: Matt Jessup, Mc  
13 Manimon, Scotland & Baumann, bond counsel to  
14 Highlands.

15 MR. SORENSON: Arthur Sorenson,  
16 attorney for both Atlantic Highlands and Highlands  
17 and special counsel for the dissolution.

18 MR. RAST: Fred Rast, Mayor of  
19 Atlantic Highlands.

20 MR. NEFF: Is there anybody else  
21 here whose looking to speak on this particular  
22 application, either in favor or against?

- 23 (No response).
- 24 Okay, you have the.
- 25 MR. JESSUP: Thank you. Matt

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1 Jessup, Mc Manimon, Scotland & Baumann, bond  
2 counsel to Highlands. For the record, we do also  
3 have the administrators for the two boroughs. In  
4 the event they have need to come, we can obviously  
5 swear them in Adam Hubeny and Timothy Hill.

6           This is the continuation of an  
7 application from last month, seeking basically  
8 approval for the dissolution of the Atlantic  
9 Highlands/Highlands Sewerage Authority. And also  
10 to make determinatons about some of the debt  
11 impacting the net debt of the municipalities,  
12 under 40A:2-7D.

13           Since we have last appeared here  
14 both Boroughs have introduced new ordinances and  
15 bonds ordinance in connection with the dissolution  
16 in January of this year, Monday in fact.

17           The dissolution ordinance  
18 establishes the new effective date of the  
19 dissolution of March 31st, 2014. The bond  
20 ordinances that were introduced show a reduction  
21 in debt assumed by the two municipalities, in the  
22 aggregate amount of \$271,631.35. That results in

- 23 payments due by the Authority on January 15th, a
- 24 debt service payment to the Monmouth County
- 25 Improvement Authority in connection with some of

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1 the bonds and a payment due on February 1st, to  
2 the NJ EIT. It is actually 2010 Authority bonds  
3 that have or will be paid prior to the  
4 distribution. That portion of the debt will no  
5 longer exist so it can't be assumed by the  
6 municipality. The debt being assumed is being  
7 reduced by that two-hundred and seventy-one  
8 thousand dollar and change number.

9           Substantially, a final service  
10 contract, separate contracts between the two  
11 Boroughs and TOMSA, the Township of Middletown  
12 Sewerage Authority, have been negotiated by TOMSA  
13 and are being approved by the two municipalities  
14 by way of the dissolution ordinances that have  
15 been introduced. So by virtue of their final  
16 adoption, those service contracts with TOMSA will  
17 also be approved by the same mechanism.

18           We also have confirmation from  
19 TOMSA, from the Middletown Sewerage Authority on  
20 December 16th, confirmed in writing by Mr.  
21 Sorenson on the 17th and again on December 26th,  
22 that TOMSA will continue to operate and honor the

- 23 existing service contract between TOMSA and the  
24 Atlantic Highlands Regional Sewerage Authority  
25 post dissolution date in the event that for

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1 whatever reason the new service contracts were not  
2 in place.

3           They have assured us in writing  
4 that they are not shutting off the valves. They  
5 are not shutting the doors. They will continue to  
6 bill the two municipalities as they had billed the  
7 one Authority, two separate bills based on flow,  
8 established by price, based on the existing  
9 service contract. That again, by law, I think we  
10 mentioned at the last hearing, the Boroughs  
11 assumed those contracts in the first place. [.

12           Again, the contracts are in the  
13 process of being approved by the two  
14 municipalities, so we don't anticipate that  
15 happening. But TOMSA has assured us that that is  
16 not a concern in the event those contracts are not  
17 entered into.

18           We also have a substantially final  
19 draft of the assumption agreement with the NJ EIT  
20 and the two Boroughs, to evidence the complete  
21 assumption of both the 2010 NJ EIT bonds of the  
22 authority and the 2013 project note of the

23 Authority which matures in 2014.

24 In connection with that agreement

25 we have also continued to have on going

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1 discussions with the Trust about the two  
2 municipalities issuing debt 2014 in lieu of the  
3 Authority, which was the original plan post  
4 dissolution, to permanently finance finance that  
5 project note to take care of that project that's  
6 been underway and was previously authorized  
7 through the Authority.

8           We also have that Atlantic  
9 Highlands has the authorization to hire the  
10 Atlantic Highlands/Highlands Regional Sewerage  
11 Authority's C-2 2 operator. That employment can  
12 be made in writing basically upon approval by the  
13 Board. So that we know that we are headed toward  
14 a dissolution, sort of a chicken and egg  
15 situation. But that has been fully authorized by  
16 Atlantic Highlands. So we would anticipate that  
17 Atlantic Highlands will be making that offer  
18 again, as soon as we know we are allowed to move  
19 forward.

20           And there is a substantial final  
21 shared services agreement between Highlands and  
22 Atlantic Highlands governing the shared service of

23 this C-2 operator.

24           The proceedings, these new

25 proceedings, were introduced on the 13th. They

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1 will be subject to public hearing on February 15th  
2 by Highlands and on February 12th by Atlantic  
3 Highlands. Both the dissolution ordinance and the  
4 dissolution bond Ordinance, as well as the debt  
5 resolution that's also required by statute, to be  
6 subject of a public hearing and finally adopted.  
7 That will take place and at that point those  
8 ordinances will be effective immediately and not  
9 subject to referendum.

10           Again, the date of dissolution is  
11 March 31st. I would reiterate and I know we  
12 mentioned it a couple of times at the last  
13 meeting, the inclusion of T&M and their report,  
14 which respect to Atlantic Highlands was that  
15 Atlantic Highlands has the capability to fully  
16 operate and manage the system. In Highlands, the  
17 same conclusion, but for the C-2 operator. Which,  
18 again, is being addressed by virtue of Atlantic  
19 Highlands hiring the Atlantic Highlands/Highlands  
20 Regional Sewerage Authority operator and sharing  
21 him with Highlands, pursuant to a shared services  
22 agreement.

23           At that point, certainly the two  
24 Boroughs believe that the ordinances that have  
25 been reintroduced in January will be be subject to

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1 public hearing and final documents in February.  
2 And adequately provide for the debt and other  
3 obligations of the Authority, adequately provide  
4 for the assumption of the services that are  
5 critical to the health, safety and welfare of the  
6 residents receiving the services of the Authority.

7 MR. NEFF: So our standard of  
8 statutory review is to ensure that there is  
9 adequate provision that has been made for the  
10 payment of all creditor and obligees of the  
11 Sewerage Authority. That seems to clearly have  
12 been addressed. And also to make sure there is  
13 adequate provision for the assumption of the  
14 services that are provided by the Authority which  
15 is being dissolved, to protect the health, safety  
16 and welfare of the recipients of the services.

17 I know we heard at the last meeting  
18 from an engineer that there is no reason to  
19 believe that the services can't continue to be  
20 provided by the municipalities in lieu of the  
21 Authority.

22 I think we all know there are

23 plenty of municipalities that provide these  
24 services capably every day. There is no magic to  
25 it. I don't think it is necessary to have the

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1 Authority to provide these services.

2 I would note that we did receive at  
3 the staff level indication from the Environmental  
4 Infrastructure Trust that they are fully  
5 supportive of the proposal and wanted to see it  
6 move forward. If there is any agency that looks  
7 to make sure that things like sewer services are  
8 going to be continued to be provided in a safe and  
9 sound manner, it is that agency.

10 So I'm comfortable with this moving  
11 forward at this point. I know that the public has  
12 been given a chance to review the matter. I would  
13 commend the two municipalities for taking steps to  
14 get rid of yet one more government agency that  
15 probably isn't as needed. I know it is a long and  
16 drawn out process, having been on the other side  
17 of the equation as well. I commend everybody  
18 who's worked on this.

19 Anybody have any questions or  
20 concerns?

21 MR. LIGHT I'm sorry, I missed the  
22 last meeting. These are both closed systems, there

23 are no treatment facilities involved at all?

24 MS. SANTOS: Correct. There are no

25 treatment facilities. There are pump stations.

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1 Sanitary sewerage is collected.

2 MR. AVERY: The treatment facility  
3 has the capacity to handle the flow now and in the  
4 future?

5 MS. SANTOS: Yes. That's been  
6 outlined in the services agreement between TOMSA  
7 and the two municipalities.

8 MR. LIGHT: Where is the treatment  
9 facility?

10 MS. SANTOS: In the Township of  
11 Middletown.

12 MR. BLEE: Motion to approve.

13 MR. FOX: Second.

14 MR. NEFF: Take a roll call.

15 MS. MC NAMARA: Mr. Neff?

16 MR. NEFF: Yes.

17 MS. MC NAMARA: Mr. Avery?

18 MR. AVERY: Yes.

19 MS. MC NAMARA: Ms. Rodriguez?

20 MS. RODRIGUEZ: Yes.

21 MS. MC NAMARA: Mr. Blee?

22 MR. BLEE: Yes.

23 MS. MC NAMARA: Mr. Fox?

24 MR. FOX: Yes.

25 MS. MC NAMARA: Mr. Light?

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1 MR. LIGHT: Yes.

2 MR. JESSUP: Thank you.

3 MR. NEFF: So next up is the  
4 proposed extension of the budget calendar pursuant  
5 to NJSA 40A:4-5.1. The statute gives the Board the  
6 authority to relax deadlines for the introduction,  
7 approval and transmission of budgets and what's  
8 recommended for mayor/council Faulkner Act budget  
9 transmissions to the governing body. The  
10 statutory date is January 15th. They were  
11 recommending that that date be extended to  
12 February 7th. And for the introduction and  
13 approval of the budget, the statutory date is  
14 February 10th. We're recommending March 14th for  
15 introduction and approval. And for the county  
16 introduction and approval of a budget, the  
17 statutory deadline is January 26th. We're also  
18 recommending March 14th. Municipal adoption, the  
19 statutory deadline is March 20th. We're  
20 recommending April 25th. And the county adoption  
21 is February 28th. We're recommending April 25th.

22 That is consistent with what we've

23 done in prior years. It all sort of triggers back  
24 to when the Governor's budget address is, so the  
25 municipalities and counties have time to reflect

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1 what's actually going to be proposed by the  
2 Governor before they run off and introduce and  
3 adopty their budgets.

4 MR. AVERY: So moved.

5 MS. RODRIGUEZ: Second.

6 MR. NEFF: Take a roll call.

7 MS. MC NAMARA: Mr. Neff?

8 MR. NEFF: Yes.

9 MS. MC NAMARA: Mr. Avery?

10 MR. AVERY: Yes.

11 MS. MC NAMARA: Ms. Rodriguez?

12 MS. RODRIGUEZ: Yes.

13 MS. MC NAMARA: Mr. Blee?

14 MR. BLEE: Yes.

15 MS. MC NAMARA: Mr. Fox?

16 MR. FOX: Yes.

17 MS. MC NAMARA: Mr. Light?

18 MR. LIGHT: Yes.

19 MR. NEFF: Next we have the Borough

20 of Spotswood and I step down for that.

21 (Whereupon, Mr. Neff removes

22 himself from the Chair).

- 23 MR. LIGHT: Proceed.
- 24 MR. VAZ: Christopher Vaz, Assistant
- 25 Division Director.

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1 MR. NEFF: Tomas Neff, Division  
2 Director.

3 MR. CORRIGAN: Good morning  
4 everybody. My name is David F. Corrigan, from the  
5 Corrigan law firm. I represent Barbara Petren in  
6 this matter. For your information. For your  
7 information, although I don't expect that she'll  
8 be speaking, although she would be delighted to  
9 answer any questions, seated right behind me is  
10 Barbara Petren who is the respondent in this  
11 matter.

12 MR. COHEN: Good morning--good  
13 afternoon. My name is Jonathan Cohen of the law  
14 firm of Apruzzese, Mc Dermott, Mastro & Murphy.  
15 We serve as the labor counsel for the Borough of  
16 Spotswood, which is the petitioner. And we serve  
17 as representing its interests in this matter.

18 MR. LIGHT: We'll call on Mr. Neff,  
19 if we may, to tell us how you made your decision?

20 MR. NEFF: I think I would rest on  
21 the written documentation for the case. But just  
22 to summarize, the information that we have

- 23 received from the applicant is insufficient to
- 24 warrant not paying a CFO who's functions related
- 25 to being a CFO appear not be in question.

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1           What appears to be more in question  
2 are management decisions that were made and the  
3 context of running a sewer and water department,  
4 which is separate and apart from statutory CFO  
5 responsibilities.

6           I'd be glad to answer anybody's  
7 questions. I do want to notes at the outset that  
8 the particular CFO in question, there is no  
9 allegation here that this particular CFO did  
10 something to enrich herself or to otherwise hurt  
11 another person for some inappropriate purpose.

12           It strikes those in the Division  
13 and at the Attorney General's office as well who  
14 reviewed this matter very carefully, that what we  
15 have here basically are concerns about management  
16 decisions that were made with respect to the water  
17 and sewer departments.

18           I believe the record speaks for  
19 itself as to why we don't think there has been  
20 adequate grounds to provide more disciplinary  
21 action to this employee than has already been  
22 approved by this particular --the decisions before

23 you. I probably shouldn't even characterize it as  
24 disciplinary action. Rather, what's been approved  
25 by the Division is placin the employee on

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1 administrative leave with pay until certain  
2 charges have been resolved one way or the other,  
3 that are pending I believe in Municipal Court.  
4 And that were filed at the municipal level, not by  
5 a county prosecutor who reviewed the matter and  
6 determined not to prosecute and not by the  
7 Attorney General's office.

8           With that I have nothing further to  
9 add. Chris Vaz is here, the Assistant Director,  
10 who is a labor attorney for many years and a  
11 manager in a different municipal. Initially this  
12 case was referred to him for his review. And he  
13 made his best professional judgment on the matter,  
14 which is consistent with all of the documents  
15 before you.

16           And we also had asked the AG's  
17 officeto comment on this matter, review it for us.  
18 There is no other input from any other individual  
19 other than the AG's office or internal staff on  
20 this matter.

21           It was taken up very carefully. We  
22 spent a lot of time trying to get this right. I

- 23 think people on the Board know that I'm not always  
24 the most sympathetic person in the world when we  
25 hear complaints about a particular public

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1 employee. I'd like to afford as much discretion  
2 as I can to a mayor or governing body to take  
3 appropriate action as they see fit. In this  
4 particular case I don't think the mayor or the  
5 governing body would be justified in taking action  
6 against this particular CFO.

7 MR. FOX: May I say something, Mr.  
8 Cohen? We already dealt with this, why are you  
9 back? What changed from the last time?

10 MR. COHEN: What changed is that  
11 since the last time I was here, I would  
12 respectfully submit, Mr. Fox, that this is a fluid  
13 situation. What changed since the last time--

14 MR. FOX: Fluid in what way, tell  
15 me--go ahead.

16 MR. COHEN: Now there have been  
17 disorderly persons offense charges brought against  
18 Ms. Petren.

19 MR. FOX: Is there any resolution  
20 to those charges?

21 MR. COHEN: There has yet been  
22 however--

23 MR. FOX: There is no resolution to  
24 those charges?  
25 MR. COHEN: There has not been yet.

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1 MR. FOX: Thank you.

2 MR. LIGHT: Chris, did you have any  
3 comments?

4 Mr. VAZ: No. I think it's been  
5 presented.

6 MR. LIGHT: What Tom did?

7 MR. VAZ: Yes.

8 MR. LIGHT: All right. We'll go to  
9 you as the attorney for the complainant to speak  
10 first. Then we'll go to Mr. Corrigan. Do you  
11 have any other comments?

12 MR. COHEN: Yes. I do appreciate  
13 it. First of all, to address what Mr. Fox had just  
14 said, it is indeed a fluid situation. Because the  
15 last time we were here there was some criticism  
16 brought against the Borough, which we think was  
17 somewhat unjustified. In that in our prior  
18 applications we had submitted adequate information  
19 regarding firsthand knowledge as to actions taken  
20 by Ms. Petren which were called into question her  
21 abilities to continue to serve as a CFO and/or tax  
22 collector, which are her two positions.

23 Now, there was a reason for that.

24 Which was there there was a time an on going-- I

25 don't know if you want to call it an investigation

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1 or whether it was in--it was within the  
2 jurisdiction of the Middlesex County Prosecutor's  
3 office.

4           It's been the practice of our law  
5 firm and we believe it to be a mandated practice  
6 in the State of New Jersey, that while the  
7 Prosecutor's office is still in possession of a  
8 case and has not yet administratively referred it  
9 back, it's improper to take statements from  
10 potential witnesses and to disclose them in a  
11 public hearing.

12           That changed. The Middlesex County  
13 Prosecutor's offices referred it back, which is  
14 not uncommon as you all know. After that our  
15 police department in the Borough of Spotswood,  
16 which is obviously comprised of sworn police  
17 officers who go in and they swear to the United  
18 States Constitution and to the New Jersey  
19 Constitution. These are not political  
20 operatives. These are individuals who we have to  
21 assume, when they prefer charges, whether criminal  
22 or disorderly persons against individuals, I think

23 we pretty much have to give them the benefit that  
24 they are doing so based on what they understand  
25 the law to be.

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1           Since the last time I was here,  
2 there are now disorderly persons offenses. Which  
3 on page three of Director Neff's, decision, he  
4 goes into quite colorfully.

5           When we read that, we deemed it to  
6 be inconsistent with his findings, with all all  
7 due respect to Mr. Neff. Mr. Neff found that--  
8 and we would agree with him on this, that the  
9 nature of the disorderly persons offenses against  
10 Ms. Petren go to the heart of her employment.

11           Although it sounds different from  
12 what he was saying today. When we talk about  
13 being a chief financial officer and manager of the  
14 finance department, it is true that water and  
15 sewer might not necessarily fall within your job  
16 responsibilities. However, the allegations that  
17 are in Municipal Court is that she knowingly  
18 falsified documents that would have resulted in  
19 what she would have known also to be incorrect  
20 billings and assessments against the taxpayers of  
21 the Borough.

22           I think everyone at the table could

- 23 agree that if those charges are true, that would
- 24 go to the heart of what a finance officer does and
- 25 what a tax collector does in terms of managing

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1 financial documents of the Borough and assessing  
2 what the taxes are with respect to the  
3 residents--that would be a tax assessor. But a tax  
4 collector would also be involved in that.

5           So it goes to the overall larger  
6 picture. Mr. Neff also did, on page three of his  
7 decision, observe the fact that if, in fact, the  
8 conviction were made, that Ms. Petren could spend  
9 six months in jail.

10           So these are serious new  
11 allegations against her. I think it would be a  
12 slight to the police department and possibly an  
13 unlawful one, to insinuate that somehow they were  
14 influenced by political decision makers. Or that  
15 the decision to issue these charges against Ms.  
16 Petren and the other individual suspected of being  
17 involved in this. Was some how less than  
18 aboveboard.

19           MR. FOX: No one is making the  
20 suggestion, that I have heard or read, that  
21 anybody is saying these were political decisions  
22 on the charges being made.

23           It is that there are--I have asked  
24 about is whether there is a resolution to those  
25 charges? Which the answer is no. There is not any

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1 suggestion that anybody is insinuating the charges  
2 are made for political reasons.

3 MR. COHEN: I just want it to be  
4 clear for the record, for any reviewing Court.  
5 Because if you look at page three of Director  
6 Neff's decision and the paragraphs preceding the  
7 one which I had just alluded to, it does sort of  
8 call into question the timing and some of the  
9 motives of the Borough.

10 I just would like it to be clear if  
11 the Appellate Division does review this case.  
12 That it's not a determination of this agency that  
13 somehow the criminal charges --rather the offenses  
14 that were brought against Ms. Petren were brought  
15 for any motive that's not one of a sworn law  
16 enforcement officer carrying out his or her  
17 duties.

18 MR. NEFF: Can I just clarify the  
19 comment?

20 Mr. LIGHT: Do you have anything  
21 more that you wanted to make?

22 MR. COHEN: I could briefly go

23 --there was no reply brief. Two days ago we  
24 received an opposition brief that was filed with  
25 the Local Finance Board from counsel for the

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1 respondent, which raised certain issues.

2 I'm not sure to what extent they  
3 are going to go into the determination that's  
4 being made by the Board. Obviously, we didn't have  
5 a chance to respond to them in writing. I am  
6 prepared to respond to them verbally.

7 MR. LIGHT: I don't know that's  
8 before us today. That's not in question as far as  
9 we're concerned. We're concerned with the  
10 decision that the Director had made based on the  
11 previous facts. Unless you think that there is  
12 something that pertains to considerations we  
13 should make today, I won't even bring that up.

14 MR. COHEN: Obviously, what Mr.  
15 Corrigan wrote in his letter was in defense of Mr.  
16 Neff's decision. It was intended to persuade you  
17 that Mr. Neff's decision was correct and should  
18 not be altered. So I don't know-- presumably he  
19 wrote it so you would consider it in making  
20 today's decision. Therefore, it would be  
21 relevant. I don't know what factors that you  
22 considered--

23 MR. NEFF: Everything that you  
24 presented, as well as Mr. Corrigan and Mr. Neff.  
25 So we appreciate it. Is there anything more that

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1 you --

2 MR. COHEN: Yeah, I do have  
3 rebuttals to some of the things that were written  
4 in his letter. I don't think they are correct.

5 In fact, he cites to a United  
6 States Supreme Court case for the actual opposite  
7 proposition that it states in Gilbert Versus  
8 Hofmeier.

9 In Mr. Corrigan's latest submission  
10 he states that it provides that with a public  
11 employee it is proper to suspend them with pay  
12 while there are criminal charges going. Granted,  
13 that case is distinguishable. But it doesn't  
14 even stand for the principal that was cited for by  
15 Respondent. Because, in fact, in that case, the  
16 Supreme Court, in the decision written by Chief  
17 Justice--not Chief Justice, by Justice Scalia,  
18 actually said the complete opposite. He  
19 said: "We think, however, that the government does  
20 not have to give an employee charged with a  
21 felony", in that case, "a paid leave at taxpayer's  
22 expense, if his services to the government are no

23 longer useful. Once the felony charge has been  
24 filed, the Constitution does not require the  
25 government to bear the added expense of hiring a

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1 replacement while still paying him".

2           The other citations that were given  
3 by Respondent for not-- to justify such a long  
4 paid administrative leave, none of them involved  
5 cases where the offenses could ultimately result  
6 in forfeiture, such as the one in this case. So  
7 that would be certainly something that I'd like to  
8 bring up. That the legal authority that was cited  
9 in Respondent's brief we think was inapplicable or  
10 mischaracterized.

11           MR. FOX: Is this before the OAL?

12           Mr. COHEN: This is before the  
13 Office of Administrative Law presently. Not this  
14 specific issue, however, the overall issue

15           MR. FOX: The case, the main issue?

16           MR. COHEN: Yes.

17           MR. LIGHT: Okay. Anything more at  
18 this time? Mr. Neff?

19           MR. NEFF: I have nothing else.

20           MR. CORRIGAN: What about Mr.  
21 Corrigan?

22           MR. LIGHT: I didn't forget you. Mr.

23 Corrigan, if you are ready at this time we'd

24 appreciate your comments.

25 MR. CORRIGAN: Let me directly

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1 answer two cogent questions asked by Board member  
2 Fox, first of all, what has changed since last  
3 time?

4           You may remember what happened the  
5 first time they asked for emergent relief. It  
6 was-- I'm almost quoting verbatim --it is like,  
7 oh, my God, Ms. Petren has to be suspended, at  
8 first they said without pay and then they said  
9 with pay, because there is this criminal  
10 investigation being conducted by the Middlesex  
11 County Prosecutor's office.

12           We now know that the police  
13 department tried to bring in the FBI. They tried  
14 to bring in the Attorney General's office.

15           They also talk about political.  
16 We'll get to that in a minute. They also  
17 contacted the Lieutenant Governor with respect to  
18 Ms. Petren.

19           What we know now is that since they  
20 raised all of those allegations, each and every  
21 governmental agency has declined to file any  
22 charges against Ms. Petren. I don't think that

23 that in itself would be enough to suspend without  
24 pay. I think the Director might disagree. All we  
25 know is that the matter was thoroughly

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1 investigated by the professional law enforcement  
2 officials and they declined to bring any charges.

3           So why are we here? My case is  
4 much stronger. There is no suggestion of any  
5 criminal activity. There is a pending --a petty  
6 disorderly persons offenses that's pending.

7           To answer your second question--  
8 you asked about the OAL. I'll tell you about  
9 what's going on with the Municipal Court  
10 proceeding. It has now been transferred to the  
11 Borough of Manalapan. They will schedule the case  
12 and the case is yet to be scheduled.

13           I can tell you this, we don't want  
14 any delay in the Municipal Court proceedings. Ms.  
15 Petren, by the way, is being separately  
16 represented by Charles Uliano, a criminal lawyer.  
17 I can tell you this, we don't want any stay in the  
18 Municipal Court proceedings. We respect people  
19 who take their Fifth Amendment rights, but that's  
20 not going to happen here. Ms. Petren is not going  
21 to take any Fifth Amendment rights. We want the  
22 Municipal Court proceeding to go forward as soon

23 as possible. We really don't know why we are here.

24 Because this case, if anything, has become

25 stronger. The Borough of Spotswood case has

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1 collapsed.

2           To answer your second question, we  
3 have had three days of administrative proceedings.  
4 We have a fourth day February 4th and we have  
5 three for days, February 18th, 19th and 20th.  
6 That's the status of the case.

7           Now, with respect to what the  
8 Director did. The Director actually significantly  
9 modified his decision from what he had earlier  
10 determined on two occasions. He had determined  
11 that Ms. Petren should immediately go back to  
12 work. The Borough didn't comply with that  
13 decision. We moved to Superior Court and I'll  
14 mention that in a second.

15           I'm not happy with the Director's  
16 decision to essentially modify his earlier  
17 decision to immediately reinstate Ms. Petren.  
18 However, I can tell you that I respect the  
19 decision. That the decision balances the  
20 interests of Ms. Petren as well as the Borough of  
21 Spotswood. He essentially said if the Borough of  
22 Spotswood doesn't want to reinstate her they don't

23 have to.

24               So they have it as Ms. Petren is on

25 administrative leave with pay. But any other

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1 determination would be wrong to Ms. Petren, who is  
2 a tenured employee.

3           Let me talk a little bit about a  
4 tenured employee. There is all this-- we read the  
5 papers, oh, it is horrible that there is Civil  
6 Service, you can't get rid of these people, et  
7 cetera, et cetera. This case proves the lie to  
8 that. Because, frankly, the whole point of tenure  
9 isn't designed to protect the employee. It's  
10 designed to protect the public from what is  
11 happening here.

12           A professional employee should not  
13 be subject to the whims of an elected official  
14 simply because that elected official determines  
15 that they don't like her. That is why Ms. Petren  
16 is on paid leave.

17           She wants to go back. She would  
18 love to go back. But given the Director's  
19 decision she is going to stay home for a little  
20 bit. I don't think it's going to be much longer,  
21 because, frankly, we're going to be back when the  
22 Municipal Court finds Ms. Petren not guilty.

23 Frankly, the Director's decision  
24 was well reasoned. It balanced the interests. It  
25 reflects the obvious concern of, well, what's

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1 going to happen when Ms. Petren is back and a  
2 witness against her is going to be her  
3 subordinate. He recognized that would be a  
4 problem and he balanced the interests. His  
5 decision should be affirmed.

6           Let me just say one final thing  
7 about this Municipal Court proceeding. This is  
8 something which is not in dispute. Ms. Petren is  
9 charged with making a false entry into a  
10 government document. One thing we know from three  
11 days of hearing, is that Ms. Petren made  
12 absolutely no false entry into a government  
13 document. You know who made the false entry into a  
14 government document? Patty Ewell, that's  
15 undisputed. Where's Patty Ewell? Has she been  
16 charged?

17           Mark my words, this case is wrong.  
18 There is a suggestion that, well, maybe there were  
19 some management decisions that were made here.  
20 They don't rise to the level of any misconduct.  
21 Mark my words, Ms. Petren has made no  
22 inappropriate management decision. At the end of

23 the case she is going to be found not guilty of

24 all of the nine charges against her.

25 Of which-- one of which is that she

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1 puts personal stuff on her computer. What does  
2 that suggest to you? Everybody else did but only  
3 Ms. Petren is charged.

4 For all of those --one other thing.  
5 I'm not going to get into it, but there is this  
6 thing, professional police officers, that they are  
7 not political operatives. I wish that were so. At  
8 the end of the case, you are going to find out  
9 that that's not the case, they are political  
10 operatives.

11 In any event, that's well beyond  
12 the scope of this decision. We ask that you affirm  
13 Director Neff's well reasoned and balanced  
14 decision.

15 MR. LIGHT: Thank you, Mr.  
16 Corrigan. Mr. Neff, I did cut you short before.  
17 Did you have something that you wanted to reply?

18 MR. NEFF: No, I don't.

19 MR. LIGHT: Do any members of the  
20 Board then have any further questions based on the  
21 information that we heard here today?

22 MR. AVERY: I just have one

23 question. The OAL proceedings you said will be

24 resolved in approximately a month?

25 MR. CORRIGAN: I didn't say that

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1 and the answer is no. Let me tell you the  
2 process. There are going to be four more days  
3 much hearing, February 4th, the 18th, 19th and  
4 20th. I suspect the hearing will be over February  
5 20th.

6           The way the procedures are we get  
7 a month to file post hearing briefs. That takes  
8 us to March 20th. Under the Rules the  
9 Administrative Law Judge has forty-five days to  
10 render a decision. Which would take us to June  
11 1st. Sometimes, frankly, the forty-five day limit  
12 is honored in its breach. And I can't guarantee  
13 her decision will be rendered by June 1st, but  
14 that's about the approximate time.

15           The other thing I can tell you is--  
16 although I don't do criminal law, the Municipal  
17 Court proceeding is probably not going to be  
18 resolved at the first date. But I can tell you  
19 two things. We are going to press for a quick  
20 hearing before the Municipal Court. And as soon  
21 as we have a determination we are going to let the  
22 Director know.

23 MR. LIGHT: That's with reference to

24 the disorderly persons charge?

25 MR. CORRIGAN: That's right. It is

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1 not our intent to delay the proceeding at all. I  
2 earlier said, you know, there is a Fifth Amendment  
3 issue. But Ms. Petren is waiving that issue  
4 because she wants all of the facts to be heard,  
5 number one. Number two, she doesn't want a delay  
6 in the proceedings. Number three, she wants this  
7 matter to be resolved as expeditiously as possible  
8 so she can get back to work.

9 MR. LIGHT: Any other comments or  
10 questions?

11 MR. COHEN: Yes.

12 MR. LIGHT: Let me ask the Board  
13 members first because that's where I started.  
14 Any other Board members have any questions?

15 (No response).

16 Go ahead.

17 MR. COHEN: I would simply object to  
18 Mr. Corrigan's attempt to inject in what we  
19 obviously don't have a transcript of, regarding  
20 what he says transpired at an Office of  
21 Administrative Law hearing, which are at this  
22 point mere assertions as to counsel's view as to

23 what happened.

24 Obviously, the Borough has stated

25 and you have Patty Ewell's certification with your

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1 materials, where she says I worked under Barbara  
2 Petren. Yes, I did put in the false readings into  
3 the book. However. I wrote on them at the  
4 direction of Ms. Petren. It was at the direction  
5 of Ms. Petren.

6 My understanding is that she so  
7 testified. I don't think that's something that is  
8 before the Board. Let me say this now in case I  
9 don't have a chance to talk later. I would like  
10 some clarification from the Local Finance Board  
11 whether the decision that it renders today is  
12 going to be determined the final agency decision  
13 for the purposes of Rule--Subsection 2 of the  
14 Rules of the New Jersey Courts, which deal with  
15 appeals to the New Jersey Appellate Division?

16 MR. LIGHT: Okay. Actually what  
17 your job is, is to convince us whether the  
18 Director's decision has not met the eminent relief  
19 and you are talking about other issues at this  
20 time.

21 I appreciate what you are saying,  
22 but I don't see how you have shown us that his

23 statements have not met that standard for emergent

24 relief, which is what you are asking us for at

25 this time, based on the disorderly persons

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1 charge.

2 MR. COHEN: It's based on the fact  
3 that in January of 2012, was when the misconduct  
4 of Ms. Petren was discovered--the alleged  
5 misconduct of Ms. Petren and actions were taken to  
6 remove Ms. Petren from her job.

7 She now at this point has been  
8 sitting at home collecting pay checks for over a  
9 year. According to Mrs. Corrigan's  
10 representations, we can expect that if Mr. Neff's  
11 decision is not reversed, that, in fact, she'll  
12 probably be collecting pay checks at the  
13 taxpayers' expense for over a year and a half and  
14 she may end up in jail.

15 MR. FOX: Whoa.

16 MR. COHEN: That's what's in Mr.  
17 Neff's decision, page three.

18 MR. FOX: There is a charge that is  
19 pending, okay, that's pending.

20 MR. COHEN: Page three of Mr. Neff's  
21 decision recognizes--

22 MR. FOX: The charge that is

23 pending since the last time you were here.

24 MR. COHEN: The problem is, how do

25 we get the money back?

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1           MR. LIGHT: That's not for us to  
2 decide at this time.

3           MR. COHEN: Respectfully, I do think  
4 it is something that you do need to consider.  
5 Because if what you are going to do is affirm a  
6 decision that says we'll continue this person on  
7 administrative pay and the individual will  
8 continue to get paid, then don't you then have to  
9 look at how if, in fact, the criminal disorderly  
10 persons charges are upheld, how can we retrieve  
11 the taxpayer monies that have been paid out over  
12 that period? I respectfully disagree--

13           MR. LIGHT: At the time, if, in  
14 fact, they are upheld, we'll deal with that at  
15 that time.

16           MR. AVERY: Mr. Chairman, for the  
17 purposes of ending this discussion, I would like  
18 to make a motion to affirm the Director's order to  
19 deny the emergent relief, the second application  
20 for emergent relief submitted by the Borough of  
21 Spotswood.

22           MR. FOX: Second.

23           MR. LIGHT: There is a motion on the  
24 floor and it is seconded. Are there any questions  
25 or comments by the Board?

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1 (No Response).

2 If not, will the Secretary please  
3 call the roll?

4 MS. MC NAMARA: Mr. Avery?

5 MR. AVERY: Yes.

6 MS. MC NAMARA: Ms. Rodriguez?

7 MS. RODRIGUEZ: Yes.

8 MS. MC NAMARA: Mr. Blee?

9 MR. BLEE: Yes.

10 MS. MC NAMARA: Mr. Fox?

11 MR. FOX: Yes.

12 MS. MC NAMARA: Mr. Light?

13 MR. LIGHT: Yes. So the Director's  
14 decision is upheld. Thank you, Mr. Cohen and Mr.  
15 Corrigan.

16 MR. CORRIGAN: Thank you.

17 MR. COHEN: Can we have something in  
18 writing confirming that was the order for today?

19 MR. AVERY: I'm sure Chris can do  
20 that.

21 MR. COHEN: I think we have  
22 forty-five days to appeal.

23 MR. LIGHT: Maybe it will be settled

24 by then.

25 MR. COHEN: I'm not that

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1 optimistic.

2 MR. LIGHT: At the suggestion of  
3 our attorney, if you want something in writing,  
4 you could present a proposed form of order and our  
5 attorney can look it over.

6 MS. STERN: That's one option. I  
7 would certainly defer to the Local Finance Board  
8 staff as to how they customarily do this.

9 MR. FOX: He is certainly entitled  
10 to what we just stated.

11 MS. STERN: You will certainly get  
12 something in writing.

13 MR. COHEN: We didn't get anything  
14 in writing last time.

15 MR. CORRIGAN: That is true, we did  
16 not get anything last time.

17 MS. MC NAMARA: It's drafted. You  
18 are going to get both. It is drafted. You will get  
19 both.

20 MR. NEFF: The first one is  
21 drafted, okay?

22 MR. COHEN: Okay.

23 MR. LIGHT: Thank you.

24 Any more matters to come before the

25 Board?

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1 MR. BLEE: Just a motion to adjourn.

2 MR. FOX: Second.

3 MR. LIGHT: All in favor of

4 adjournment?

5 (Unanimous affirmative response).

6 MR. LIGHT: We are adjourned.

7 (Whereupon, the matter concludes at

8 12:00 p.m.)

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1           C E R T I F I C A T E

2           I, CHARLES R. SENDERS, a Certified  
3 Shorthand Reporter and Notary Public of the State  
4 of New Jersey, do hereby certify that prior to the  
5 commencement of the examination, the witness was  
6 duly sworn by me to testify to the truth, the  
7 whole truth and nothing but the truth.

8           I DO FURTHER CERTIFY that the foregoing is  
9 a true and accurate transcript of the testimony as  
10 taken stenographically by and before me at the  
11 time, place and on the date hereinbefore set  
12 forth, to the best of my ability.

13          I DO FURTHER CERTIFY that I am neither  
14 a relative nor employee nor attorney nor counsel  
15 of any of the parties to this action, and that I  
16 am neither a relative nor employee of such  
17 attorney or counsel, and that I am not financially  
18 interested in the action.

19

20           C:\TINYTRAN\Charles Senders.bmp

21

22

23

24 CHARLES R. SENDERS, CSR NO. 596.

25 Dated: January 27, 2014

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