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STATE OF NEW JERSEY  
DEPARTMENT OF COMMUNITY AFFAIRS  
LOCAL FINANCE BOARD

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

B E F O R E: TOM NEFF, Chairman  
DAN PALOMBI, Deputy Attorney General  
PATRICIA McNAMARA, Executive Secretary  
EMMA SALAY, Deputy Executive Secretary  
FRANCIS BLEE, Member  
IDADA RODRIGUEZ, Member  
ALAN AVERY, Member

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

5 MS. McNAMARA: Mr. Neff.

6 MR. NEFF: Here.

7 MS. McNAMARA: Mr. Avery.

8 MS AVERY: Here.

9 MS. McNAMARA: Ms Rodriguez.

10 MS RODRIGUEZ: Here.

11 MS. McNAMARA: Mr. Blee.

12 MR. BLEE: Here.

13 MS. McNAMARA: Mr. Light is absent.

14 MR. NEFF: Okay. We're going to start  
15 with the City of Newark's budget for being under  
16 supervision. The statutory scheme for supervision  
17 requires that the City's budget be adopted by the Local  
18 Finance Board. The City introduced a budget back in I  
19 believe August and they introduced amendments I believe  
20 last week. And they advertised those amendments in the  
21 Star Ledger. We also disseminated those amendments on  
22 our web page. And this meeting will essentially be the  
23 public hearing for those amendments and the adoption of  
24 the budget itself and no further action will be needed  
25 to be taken by the governing body in Newark itself.

1                   Before we get into swearing folks in at  
2 the table and discussing the City's budget, is there  
3 anybody here from the public who wants to testify or be  
4 heard? No.

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

20                   In 2014 budget there were \$6 million of  
21 cancellations from 2013 appropriations that are used to  
22 balance the budget. There was a general capital  
23 surplus of \$337,000. There was a sale of foreclosed  
24 property of \$5 million. There's a use of car rental  
25 tax in the amount of 13,000,400. A lot of that is

1 surplus from prior years that carried forward that  
2 won't be available again and there's some ticket tax  
3 and facilities fee revenue in the amount of  
4 \$1.7 million that may not be available in 2015.

5           There's also in the 2014 budget there's  
6 both the tax sale from last year and an accelerated tax  
7 sale for 2014. So there's sort of a double -- double  
8 use of tax sale. In 2014 that will not be available.  
9 In 2015 we approximate that number to be \$10 million.  
10 May be higher. May be less. Transitional aid is in  
11 this budget in the amount of \$10 million which is not  
12 expected to be a recurring funding source forever. So  
13 in that sense that is a one shot or a declining source  
14 of funds over time. There was a reimbursement from the  
15 Essex county Improvement Authority in the amount of  
16 \$2 million which may not be recurring. And there was a  
17 \$1.2 million fire safety fee from prior collections  
18 that won't be available again in 2015.

19           When you add all those things up, it's  
20 almost \$50 million in revenues that may not be  
21 available again in 2015. There is also on the  
22 appropriations side there were a number of deferrals  
23 that were taken in 2014. And those costs will come  
24 back again in 2015. Some of them with interest  
25 unfortunately, but there's a \$2 million deferral of

1 payments to the Department of Labor. In 2014 for  
2 unemployment insurance reimbursements. And that will  
3 be paid back over four years beginning with a \$500,000  
4 payment in 2015.

5                   There is also a one-time reduction in an  
6 amount of a payment to the Housing Authority that would  
7 have paid debit services. The Housing Authority has  
8 other sources of funds to pay that balance and that's  
9 to the tune of about \$5 million. And then there's also  
10 consistent with our Board meeting last week, there's an  
11 \$8 million tax appeal deferral which will be paid off  
12 over I believe five years. And that payment will be  
13 newly included in the 2015 budget to the tune of 1.7 million  
14 and will be continuing for I believe for five years.

15                   So on the flip side you've got revenues  
16 down 50 million and you're going to have appropriations  
17 increasing in 2015 by another 10 million. So  
18 thereabouts. So that's not even factoring in what sort  
19 of increases in spending there will need to be to  
20 accommodate contractual requirements with employees or  
21 others. So we believe the structural problem heading  
22 into 2015 is \$60 million. That's still a very large  
23 structural imbalance. Probably the largest in the  
24 state. And it's going to require a lot of action next  
25 year to take care of it. It's going to take a lot

1 action sooner rather than later to take care of it. So  
2 we just wanted to be very clear about what that problem  
3 is heading into 2015 because if there's no appreciation  
4 for what the problem is, then steps won't be taken to  
5 deal with it.

6                   And in that same vein, and the need to  
7 get spending reductions in place for 2015, staff at the  
8 Division are recommending that in addition to the  
9 budget amendments that were adopted by City council  
10 last week, that there be four additional changes to the  
11 budget prior to being adopted. One is for there to be  
12 a further five percent reduction in the salary line  
13 item for the clerk's office, which is an approximately  
14 \$3 million line item in the aggregate. But our  
15 recommendation is that it be further reduced by  
16 \$174,000. 174 -- \$174,079. We are recommending that  
17 the council -- I'm sorry, that was for the clerk's  
18 office. For the council's office we're similarly  
19 recommending a line item reduction for council  
20 salaries, council office salaries of \$170,173. And  
21 we're finally recommending that there be a further  
22 reduction of a million dollars in the healthcare line  
23 item for the City. And the reason for these  
24 reductions, I'll just briefly explain them. The  
25 clerk's office has been reported to be by way of

1 comparison to Jersey City and Paterson and elsewhere,  
2 highly over funded, perhaps does things that other  
3 places perhaps don't do. And there could be some  
4 efficiencies brought to that office. And the governing  
5 bodies, the councils line item has similarly reported  
6 to be sometimes as much as three times the budget of  
7 places in Jersey City, I believe that's what the Ledger  
8 reported. I know the comptroller issued a report  
9 indicating that that line item in the budget is also an  
10 outlier. And to be clear, we have council members who  
11 are entitled to I believe a salary of approximately  
12 \$60,000, plus they receive longevity payments on top of  
13 that that they had earned through 2012 which, you know  
14 and I don't think there's many council members who make  
15 those sorts of salaries with longevity and they are  
16 also entitled, but not all of them receive a car and  
17 gas card and they also receive varying levels of  
18 payments in lieu of expenses which is -- can be as high  
19 as I believe north of \$20,000 for the council  
20 president. And the other council members as well. And  
21 we think those levels of compensation are high.  
22 They're especially high in light of again, places like  
23 Jersey City and Paterson that have far less  
24 compensation for members who are in cities that are  
25 similar in size, a little bit smaller and have all the

1 same sorts of challenges that Newark has.

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

15           And on the healthcare line item, the  
16 reason for the rationale is very simple. State law  
17 passed several years ago requires all employees and  
18 officers to pay a certain amount towards their  
19 healthcare or premiums. It's based on a grid. The  
20 lower your pay, the lower percentage of your premium  
21 you're required to pay. The higher your pay, you can  
22 pay -- could be required to pay up to 35 percent of  
23 your pay -- I'm sorry. 35 percent of the premium of  
24 your health insurance if you're a higher income level  
25 in the municipality. And it's come to our attention at

1 the Board level that the City, for whatever reason,  
2 we're not sure why, has not been collecting those  
3 payments from anyone, whether it be the officers like  
4 the governing body or the rank and file employees and  
5 we would strongly suggest that this City needs to be  
6 beginning collecting those payments ASAP and perhaps in  
7 some circumstances, not all, perhaps in some  
8 circumstances there should be some leadership on this  
9 issue. And the payments that should have been made  
10 perhaps should be made retroactively, but that's a  
11 decision that the City will have to make and they'll  
12 have to try and live within that reduction in the  
13 healthcare line by \$1 million. And the reason why it's  
14 showing as a reduction as opposed to a revenue is just  
15 because standard budgeting for all municipalities is if  
16 the appropriation for healthcare is a net appropriation  
17 of the revenues that are collected from the employees  
18 and the office holders. So it's really a revenue that  
19 will be coming into the City to offset that particular  
20 appropriation line item, but we would like to see it --  
21 I think it's safe to say let's see the City collect the  
22 same healthcare obligations that, you know, the  
23 hundreds of thousands of public employees in the state  
24 and state employees pay. It's just not right that  
25 that's not being collected and then everyone else is

1 being asked to them subsidize that failure to collect  
2 those monies.

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

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

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

21                   (All witnesses sworn.)

22                   MS. TATE: I'm Darlene Tate. I'm the  
23 budget officer. I'm very clear as to what was stated  
24 here this morning. And I'll take it back to our  
25 governing body.

1 MS. SMITH: Danielle Smith, acting  
2 finance director. As Darlene Tate indicated, I'll  
3 definitely take this back to the municipal council and  
4 have this discussion.

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

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

17 MS. DANIELS: Chairman, Keisha Daniels,  
18 City of Newark. I can speak to the fact that for our  
19 Horizon system where employees choose what plans  
20 they're in, that system is not married to our payroll  
21 system. So it took several months for a person to  
22 enter data into the payroll system. So there's no  
23 opportunity to do it when the legislation was passed.

24 In 2011 we were already into our budget  
25 year when the legislation was passed. In 2012 we took

1 the herculean task of trying to input everyone into the  
2 payroll system because prior to that, our contracts  
3 were basically by union designation and the flat fees  
4 were collected.

5 In 2013 I do not know exactly why the  
6 deductions didn't kick in, but in 2014 the City moved  
7 rapidly to improvement Chapter 78 recurrently as a tier  
8 1 deduction. And the reason why you will see  
9 1.5 percent is because the year one calculations are  
10 not as high as 1.5. So we will definitely get up to  
11 speed with that.

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

1 third grid today.

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

8                   For the record, I've now asked I think  
9 every day or every other day for the past three weeks  
10 or month, however long it is that we've known this has  
11 been going on for an accounting of every employee and  
12 officer in Newark what they have been paying towards  
13 their healthcare versus what statutorily they're  
14 supposed to be paying for their healthcare. I have yet  
15 to receive anything from the City of Newark on that  
16 score. I don't understand why it's not even known what  
17 it is that people are supposed to have paid versus what  
18 they have paid. I just -- I find that absolutely mind  
19 boggling and frustrating. Everyone in this room who  
20 receives healthcare pays by the grid. I believe, you  
21 know, the payments for people range at the upper level.  
22 They range from anywhere from 6,000 probably to 8 or  
23 9,000 based on whether they're in the single plan or a  
24 family plan at this point if they're at the top of the  
25 scale. But if someone at the top of the scale in

1 Newark was making maybe let's say \$100,000, they're  
2 paying \$1,500. And it's not fair. And it's not  
3 reasonable. So I'm trying to keep my best poker face  
4 here and not express anger, but understand there's a  
5 real level of frustration at the division that these  
6 funds aren't being collected like the law requires and  
7 like is being required for 70,000 state employees and  
8 every other public employee around the State. It's not  
9 right. It's not fair. And that's a subsidiary that  
10 we're subsidizing that needs to be changed quickly. So  
11 I think we're going to be asking repeatedly for that  
12 information. We're not going to stop just because  
13 today's the budget adoption by the Board. We're going  
14 to continue to ask what was supposed to be paid versus  
15 what was paid. We're going to ask who was covered by  
16 union contracts, perhaps maybe they should still be at  
17 a lower grid level and who perhaps clearly could be put  
18 at a higher level immediately. If that is the  
19 appropriate statutory level that everyone else follows.

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

22 MR. AVERY: I just have a question so I  
23 understand on the healthcare payments. Who is making  
24 up the difference between what should be paid and what  
25 is being paid? Is that the City funds are paying that

1 or no one's paying that?

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

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

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

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

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

23 MR. AVERY: Thank you.

24 MR. NEFF: Any other questions?

25 MS. RODRIGUEZ: It's a company. I fully

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

8                   Is there a plan in place to recoup for  
9 the employees that are still there, I imagine there's  
10 3,000, 4,000 employees?

11                   MS. DANIELS: Over the ten years.

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

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

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

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

21                   MS. RODRIGUEZ: Right.

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

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

1 MS. DANIELS: Yes.

2 MS. RODRIGUEZ: Unions in different  
3 departments and divisions.

4 MS. DANIELS: Okay.

5 MS. RODRIGUEZ: Okay. Thanks.

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

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

20 MS. DANIELS: Approximately 20 percent.

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

22 MR. NEFF: One other quick issue I just  
23 want to raise for the record. One of the uses of funds  
24 for the 2014 budget is car rental tax. And the car  
25 rental tax was imposed by special legislation I believe

1 that passed in 2009. It raises approximately  
2 \$8 million a year. And some balances had accrued in  
3 those funds. They can only be used for economic  
4 development projects.

5           The funds will be used in the 2014  
6 budget for public safety expenditures that are needed  
7 to ensure that areas that are under redevelopment will  
8 actually be safe and secured and people will want to  
9 develop them, so it's being used consistent with the  
10 law. I think we all agree on that score, but those  
11 funds, then, that accrued in the balances won't be  
12 available for past commitments that Newark had made to  
13 developers who are promised some level of grant  
14 assistance for different economic development projects.  
15 And what I think we would all expect to see happen in  
16 the very near future would be for Newark to come back  
17 to the Board with a financing proposal to utilize  
18 future car rental receipts as a pledge for whatever  
19 level of bonding is necessary to make good on those  
20 economic grant commitments that were made to people who  
21 are helping to build Newark and make it prosperous.  
22 And so we would ask that Newark come back to the Board  
23 as it has in the past with a proposal to make sure that  
24 whatever commitments were made or lived up to through a  
25 financing proposal that then this Board would consider

1 in the near future so that no one has started a project  
2 and then finds out they're not going to receive what  
3 was committed to them as an inducement to move forward  
4 with the project.

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

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

20 Is there anything that council or the  
21 clerk's office have done already to either reduce their  
22 salaries or their payments in lieu of expenses or to  
23 reduce their use of cars or gas cards to make up for  
24 some level of reductions there or were those purely  
25 just accounting reductions?

1 MS. TATE: They were basically just  
2 accounting reductions. That's it.

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

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

10 MS. DANIELS: Thank you.

11 MR. NEFF: And at the division staff we  
12 do as well. We'll continue to work with the City to  
13 try and find ways to reduce expenditures, find  
14 efficiencies. Otherwise generate revenues that are  
15 available for the City, and I would note for the record  
16 the division has in the past worked with the City to  
17 try and implement the outsourcing of the collection of  
18 aged court receivables and there's I believe more than  
19 \$10,000,000 in outstanding aged court fees and fines  
20 that could be collected. And it was actually a  
21 requirement of the last demo the City entered into the  
22 State that they outsource those collections and to just  
23 do it the same way that Camden has done it, Paterson  
24 has done it, Asbury Park has done it.

25 Every other municipality that is really

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

17           With that, I guess I would make the  
18 motion to adopt a budget for the City of Newark that  
19 reflects the amendments that were advertised by the  
20 City and by us as well on our website, but also  
21 including the items that were discussed earlier on the  
22 record. And that also, any transfers that are done  
23 within the City by the end of the year would require  
24 the Board's approval so that we have some level of  
25 assurance that the budget that is ultimately finalized

1 through transfers reflects what was voted on here  
2 today.

3 MR. BLEE: Second.

4 MR. NEFF: Roll call.

5 MS. McNAMARA: Mr. Neff.

6 MR. NEFF: Yes.

7 MS. McNAMARA: Mr. Avery.

8 MR. AVERY: Yes.

9 MS. McNAMARA: Ms. Rodriguez.

10 MS. RODRIGUEZ: Yes.

11 MS. McNAMARA: Mr. Blee.

12 MR. BLEE: Yes.

13 MR. NEFF: Thank you.

14 Next up we have remaining item for North  
15 Wildwood.

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

20 This is an application in the amount of  
21 \$900,000 to finance an emergency temporary  
22 appropriation over a two-year period. I'll get into  
23 the details in a moment, but the emergency temporary  
24 appropriation resulted from a court ordered requirement  
25 to repay a lienholder in connection with an invalidated

1 or still contested city lien. And again, we'll dive  
2 into that in a minute.

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

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

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

25 So those liens were sold in 2007 and

1 2008 to the same purchaser of those liens. Subsequent  
2 to that sale, the underlying property owner brought  
3 another lawsuit in court challenging the computation of  
4 taxes and the application of the land tax credit.  
5 Recall that in connection with PILOT payments you  
6 typically get a land tax credit for the amount of land  
7 taxes actually paid. The property owner brought a law  
8 lawsuit in connection with those two items and  
9 essentially what the Court did was said look, we have  
10 to resolve that dispute between the underlying property  
11 owner and the City, but in the meantime, we have a  
12 lienholder who validly paid what he thought was to buy  
13 a valid lien. We want to remove him from the equation,  
14 let's make him whole. Get him out of the process and  
15 then resolve the underlying dispute between the City  
16 and the property owner. So the Court ordered the City  
17 to repay to the original purchaser to make them whole  
18 the balance of the initial purchase plus that property  
19 owner had bought subsequent, they had kept the taxes  
20 paid, plus interest, et cetera. The court told the  
21 City to pay that amount back to the lienholder, make  
22 him whole and get him out of the way. That was the  
23 \$850,000 approximately that the City declared an  
24 emergency temporary appropriation for earlier this year  
25 and funded to the lienholder in accordance with the

1 court order.

2                   The City and the property owner are  
3 still in the middle of the judicial process as to the  
4 underlying disputes regarding, again, the computation  
5 of taxes and the application of the land tax credit.  
6 The court had originally determined that land tax  
7 credits had to be applied in a certain way. They asked  
8 the City to recompute. The City did that, but at the  
9 same time the City is appealing that ruling for a  
10 variety of legal arguments that have not yet, you know,  
11 seen a full adjudication.

12                   So again, in the meantime, the City was  
13 required to repay the purchaser of the lien in full  
14 resulting in the roughly \$850,000 amount that was paid  
15 through an emergency temporary appropriation. And  
16 under the refunding section of the local bond law, the  
17 City is looking to finance that over a two-year period,  
18 \$52 a year to repay that amount.

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

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

25                   MR. NEFF: I'm sorry.

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

8                   MR. NEFF: So the municipality was aware  
9 that they had this expense and then ultimately adopted  
10 a budget without covering the temporary. I'm not  
11 trying to be flippin, but on sort of this belief that  
12 this Board would just rubber stamp a request to finance  
13 the temporary appropriation with the first payment of  
14 2015.

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

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

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

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

25                   MR. JESSUP: Yes, Tom, absolutely. And

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

15 MR. NEFF: I believe that the -- our  
16 staff had requested more detailed breakdown of what  
17 this \$843,000 payment was for. I think our  
18 understanding was that the underlying property lien was  
19 150,000. Is that right?

20 MR. JESSUP: I think 115,000.

21 MR. NEFF: Oh, 115,000.

22 MR. JESSUP: I think through a  
23 supplemental submission I believe the City did provide  
24 the two tax sale certificates that add up in the  
25 aggregate to approximately 115,000. Again, this goes

1 back to 2006, really and 2007. The purchaser of the  
2 lean in order to protect their priority then buys or  
3 pays the subsequent real estate taxes.

4                   So the total amount that the court  
5 adjudicated needs to be returned to the lienholder is  
6 not just 115,000 from the original tax sale  
7 certificates in '06 -- '07 and '08, but were -- include  
8 all of the subsequent payment that that lienholder has  
9 made in order to protect his interest in the lien.  
10 Obviously with the understanding that once the  
11 adjudication of the underlying matter is settled, there  
12 is an amount of money -- remember, in all this time the  
13 property owner has still not paid taxes, right, so in  
14 the end the property owner is going to have some form  
15 of taxes that it will have to make up for going back to  
16 that '06 and '07 date. The court didn't want the  
17 lienholder to be waiting for that, so they wanted the  
18 City to pay them off, basically front that money, let  
19 the underlying matter adjudicate itself and see how  
20 much money through that process the City collects for  
21 the taxes over all those years.

22                   MS. RODRIGUEZ: I have a comment. So  
23 the lienholder has the lien on this property since  
24 2006. Doesn't do anything in terms of trying to take  
25 over this property?

1                   MR. BURKEY: They were trying to  
2 foreclose.

3                   MS. RODRIGUEZ: So they weren't able to  
4 foreclose, keeps paying the taxes -- a certificate of  
5 \$115,000 is now up to \$850,000.

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

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

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

16                   MS. RODRIGUEZ: In my mind I really  
17 can't fathom that. You know I've seen these deals  
18 before. Why they weren't able to foreclose after 18 or  
19 24 months is -- I don't know, it's mind boggling to me  
20 and the fact that the taxpayers are going to have to  
21 pay for this for the City and the Court to rule that  
22 way is mind boggling and bothersome to me.

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

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

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

16 We had one judge already earlier in 2013  
17 rule in our favor. And set out the amounts and then  
18 another judge, Judge Batton, after Judge Gibbon had  
19 already ruled in our favor, then they went in front of  
20 Judge Batton and then this came, this was the first  
21 time -- to be honest, first time we had ever really  
22 lost in court against them for all the years that we  
23 had been selling the liens and so forth and we had sold  
24 originally prior to that that say redeemed at one point  
25 in 2005. So we were successful the first time in

1 selling the lien and getting a redemption and having  
2 them pay it off. And, you know, so we went ahead and  
3 sold it again.

4 MR. NEFF: So the \$843,000, again, it's  
5 115,000 for the underlying original lien?

6 MR. BURKEY: Correct.

7 MR. NEFF: How much of that 843 is  
8 attributable to interest? I mean there's some  
9 18 percent.

10 MR. BURKEY: Yeah, it's a little  
11 difficult to say with the lienholder because what  
12 happens is the lienholder gets it and we had to pay the  
13 lienholder payments and legal interest. So we had to  
14 pay the interest that the lienholder had paid us, the  
15 18 that we had taken in as interest revenue. We had to  
16 put all that back, plus legal interest on top, which  
17 the legal interest wasn't much.

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

21 MR. BURKEY: Yeah, it's 18 percent and  
22 then it's also 18 percent on all the subsequent  
23 payments that they made since then. And again, our  
24 argument is we're still owed that money because now the  
25 lienholder has been given it back where they paid us

1 that amount. We're still contesting that we're still  
2 owed all of the interest once we figure out the  
3 charges, you still owe us 18 percent or whatever the  
4 charges are.

5 MS. RODRIGUEZ: So 18 on the original  
6 115 and then every year that they pay the taxes 18 on  
7 top to have that, too?

8 MR. BURKEY: Correct.

9 MR. JESSUP: For the lienholder --

10 MS. RODRIGUEZ: For the lienholder?

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

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

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

20 MR. AVERY: If he doesn't pay his taxes.  
21 He's not going to pay his taxes plus 18 percent.

22 MR. NEFF: Right.

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

25 MR. NEFF: How much has the City on

1 legal bills for this saga over the last six years?

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

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

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

22 So a judge -- after a judge ruled in the  
23 City's favor, a second judge said you should get a  
24 credit land taxes, even though the property owner has  
25 not paid those land taxes and my guess is the City is

1 going to argue pretty strongly that section 20 of the  
2 long-term exemption law on appeal has fairly black and  
3 white language in one sentence that says that you only  
4 get a credit for the amount actually paid in the prior  
5 four quarters.

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

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

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

1                   MR. JESSUP: And we can provide that in  
2 time -- certainly in plenty of time next week.

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

9                   MR. JESSUP: Yeah.

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

12                  MR. JESSUP: Yes.

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

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

23                  MR. NEFF: Just one more question, I  
24 think my understanding was that there's something like  
25 a million and change of surplus for North Wildwood and

1 why wasn't the surplus used to just pay this as opposed  
2 to doing a temporary emergency or at least something  
3 paying this down? It looked to us like there was some  
4 room in the budget out of surplus to pay something  
5 toward this issuance as opposed to just borrowing for  
6 the whole thing.

7 MR. JESSUP: One comment. In July --

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

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

19 MR. NEFF: This is Moody's?

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

1 try and maintain that double A minus which is the  
2 lowest of that double A category.

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

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

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

20 MR. JESSUP: Thank you.

21 MR. NEFF: Thanks.

22 Motion to adjourn.

23 MR. BLEE: Second.

24 MS. McNAMARA: All ayes.

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

## 1 CERTIFICATE

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

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Dated: October 31, 2014

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Notary Commission Expiration Date:

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July 29, 2016

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