

TOWNSHIP OF BERKELEY
PLANNING BOARD

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4 IN THE MATTER OF:
5 SOUTH SEASIDE PARK HOMEOWNERS
6 AND VOTERS ASSOCIATION
7 DE-ANNEXATION PETITION HEARING
8 -----

Pinewald Keswick Road
Bayville, New Jersey
Thursday, June 4, 2015
7:30 p.m.

10 B E F O R E:

- 11 Robert Winward, Chairman
- 12 Brian Gingrich, Member
- 13 John Bacchiode, Councilman
- 14 Frederick Belli, Member
- 15 Domenick Lorelli, Member
- 16 Nick Mackres, Member
- 17 Richard Callahan, Member

23 -----
24 LINDA SULLIVAN-HILL & ASSOCIATES
25 CERTIFIED COURT REPORTERS
46 SOUTH LAKEVIEW DRIVE
JACKSON, NEW JERSEY 08527
(732) 835-0001

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2 APPEARANCES:

3 DASTI MURPHY, MCGUCKIN, ULAKY,
4 CHERKOS & CONNORS, ESQS.
620 W. Lacey Road
5 Forked River, New Jersey 08731
BY: GREGORY MCGUCKIN, ESQ.
6 Attorneys for the Board
7 O'MALLEY, SURMAN & MICHELINI, ESQS.
17 Beaverson Blvd.
8 Brick, New Jersey 08723
BY: JOSEPH MICHELINI, ESQ.
9 Attorneys for the Petitioners

11 ALSO PRESENT:

12 Kelly Hugg, Secretary
13 Ernie Peters, Engineer
14 James Oris, Planner
15 Stanley C. Slachetka, Planner
16 Stuart B. Wiser, Planner

I N D E X

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3	Donald whiteman	
4	By Mr. Michelini	6
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10	E X H I B I T S	
11	NUMBER	DESCRIPTION
12	A-37	Photographs
13	A-38	Eight photographs of Seaside Park park and beach
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15	A-39	Bag with one-foot rock
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1 MR. WINWARD: Okay. As everybody
2 takes their seat, we're going to ask the South
3 Seaside Park Homeowners and Voters Association to
4 start their testimony.
5 MR. MICHELINI: Good evening.
6 Joseph Michelini from O'Malley, Surman & Michelini
7 on behalf of the South Seaside Park Homeowners and
8 Voters Association petitioner signers.
9 I had spoken with Mr. McGuckin. We
10 had originally planned to bring in our -- start our
11 testimony with our professionals tonight because we
12 only have maybe 15 minutes to the maximum of a half
13 hour of remaining public testimony. But
14 Mr. McGuckin informed me that that was going to
15 be -- it was going to be very difficulty to get two
16 hours straight tonight. We don't want to bring in a
17 planner or a, you know, a municipal accountant or
18 other professional without knowing we're going to
19 have the time for that person to testify, because we
20 anticipate that that testimony will be a little
21 while and take some time. And, of course, there's
22 expense involved in bringing in professionals.
23 So, Mr. McGuckin advised that because
24 of the master plan reexamination tonight and the
25 other applications, including the one that was just

1 withdrawn with prejudice, that we would not have
2 that time slot. So, we anticipated tonight simply
3 to have testimony of remaining public individuals.

4 And, of course, now everybody was
5 unaware that Mr. Gasiorowski was going to come up
6 here and withdraw his application. And my people
7 certainly understand that that was unanticipated.
8 So, I'll speak with Mr. McGuckin about next month.
9 It's not looking good, I understand, for having a
10 two hour time slot. But we'll talk ahead of time
11 and try to work it out so that when we do bring in
12 our experts, there is an adequate time frame for
13 efficiency, both for the expert, for us, for you,
14 for the public, et cetera.

15 And so, with that, what I would like
16 to do tonight is call Mr. Whiteman back. He has
17 already been sworn. I could have called a couple of
18 witnesses to clean up some of the areas that were
19 left open, but Mr. Whiteman has been here for every
20 application and is certainly personally
21 knowledgeable about all the issues. And I discussed
22 this with Mr. McGuckin as well.

23 This probably would be the most
24 efficient way to address a few of the areas that
25 have been left open where there's some questions.

1 And so, with that, we'll proceed with Mr. Whiteman's
2 remaining testimony. That will be the only witness
3 tonight. Then, after that, we would hopefully bring
4 back our experts, whether it's next meeting or the
5 meeting after.

6 DONALD WHITEMAN, previously sworn.

7 EXAMINATION BY MR. MICHELINI:

8 Q Okay, Mr. Whiteman, you've already
9 been sworn.

10 A Yes, I have.

11 Q Okay. I know you brought some
12 pictures with you. Can you describe for us what you
13 brought with us, what you brought with you and we'll
14 have it marked.

15 Let's have it marked first.

16 A The first set of pictures I have here
17 are just looking across the bay at the mainland.

18 MR. MCGUCKIN: Okay. Let's mark it
19 first and then you can identify it.

20 THE WITNESS: Okay.

21 (The Photographs were marked as A-37
22 for identification.)

23 (The Eight photographs of Seaside
24 Park park and beach were marked as A-38 for
25 identification.)

1 BY MR. MICHELINI:

2 Q Okay. Mr. Whiteman, let's focus in
3 on A-37. I know you didn't bring your easel, so
4 I'll hold it up. Can you tell us what A-37 is.

5 A Right. A-37, what I thought about
6 doing is, you heard me here the prior meetings. I
7 said about the distance I had to travel. I talked
8 about --

9 MR. MCGUCKIN: Sir, just identify the
10 exhibit first so we have it on the record.

11 THE WITNESS: Okay. What we have
12 here is we have is one, two, three, four, five
13 pictures from the Wheelhouse Marina across the bay.

14 Q Let me stop you there. So, those are
15 the top five.

16 A Right.

17 Q Then you have pictures on the bottom
18 as well, correct?

19 A Yes. The picture on the bottom
20 basically shows how close the adjoining or should I
21 say Seaside Park is away from the middle of the town
22 where I live in Seaside Park.

23 Q Okay. And so, that is the picture in
24 the center on the bottom. And the picture, looks
25 like you have two pictures on the right on the

1 bottom. And they are of Bay Beach area?

2 A Right. I had talked about the Bay
3 Beach and the --

4 Q Okay.

5 A -- problem with it.

6 Q Let me stop you there. Did you take
7 these photographs?

8 A Yes, I did.

9 Q Okay. Were they taken -- when were
10 they taken?

11 A Those photographs were taken in
12 March.

13 Q Okay. March of this year?

14 A March of this year, yes.

15 Q And so, if you will, now you can go
16 through the pictures of the top five taken from the
17 Wheelhouse Marina. That's on South Seaside Park,
18 right?

19 A Yes, that is correct.

20 Q And that's looking across the bay at
21 mainland Berkeley, correct?

22 A Yes. What I did was I --

23 Q Go ahead.

24 A -- I took the first picture. And
25 what I wanted to do is get a panoramic view, I

1 guess, and take every section of Berkeley Township
 2 from where I'm standing. So, if you notice on the
 3 first picture, if you look close enough, you will
 4 see the antenna of W -- the old WOBN.
 5 Q That's on the mainland?
 6 A And that is on the mainland.
 7 Q Obviously, they're not going to be
 8 able to see it up there --
 9 A Right.
 10 Q -- but if you look at the picture
 11 closely, you can see that?
 12 A Right. And then the next day --
 13 Q Let me stop. So, the first picture
 14 on the upper left of A-37 is looking to the south
 15 across the bay from Wheelhouse Marina to the south
 16 side of mainland Berkeley Township?
 17 A It would be the southwest side of
 18 mainland Berkeley Township, yes.
 19 Q Well, looking in a southwesterly
 20 direction?
 21 A Direction, yes.
 22 Q Okay. And then the next picture in
 23 the center, go ahead and describe that.
 24 A The next picture in the center,
 25 again, is the community of the houses over there,

1 whether that's Berkeley Shores or not. But that's
 2 another picture I took. Because, as you know, the
 3 distance that we travel by car is 16 miles. But the
 4 distance also across the bay is anywhere from 2.3,
 5 2.4 miles up to 2.8 miles.
 6 Q How do you know that?
 7 A To be honest with you, if any of you
 8 are locals and you remember in 1977, if you lived
 9 here, my bride and I decided to get in my pickup
 10 truck and we drove from 22nd Avenue all the way
 11 across the Wyndham (phonetic) on the -- the eating
 12 place over there. And I wanted to get the distance.
 13 I always wanted to know what the distance was across
 14 the bay.
 15 MR. MCGUCKIN: I assume it was
 16 frozen.
 17 THE WITNESS: It was frozen, yes. It
 18 was frozen.
 19 A So, I mean, that's 1977. If you
 20 weren't here, that was the coldest winter I
 21 remember. And my wife, which was my girlfriend at
 22 the time, still went with me, which is amazing. But
 23 that's why I know for sure that that's what the
 24 distance is.
 25 The next picture here --

1 Q Here being to the upper right of --
 2 A Upper right-hand corner is, I took
 3 the next picture to the north to show that the
 4 distance, if you can see where it is, you see the
 5 dock here and the bulkhead, but you see that we are
 6 just about three miles away, across the bay. We are
 7 disjointed from the mainland. We're not part of the
 8 mainland. And that serves as one of the problems
 9 that we have, since we were not part of the
 10 mainland, to become part and to enjoy what goes on,
 11 as you're telling me, on the mainland, it's just,
 12 water separates us.
 13 Q Okay. What are the next two
 14 pictures?
 15 A The next two pictures, again, across
 16 the bay, as we're moving north, again, it's part of
 17 Berkeley Township. And then as we come up here also
 18 on the right side, you'll see the AT&T telephone
 19 poles which is the other section of Berkeley
 20 Township in that area also. And I did this again --
 21 and you understand it's the distance and being
 22 disjointed from a community. I think all of you can
 23 look at this and see, I understand, Mr. Whiteman,
 24 what's going on here. Maybe you wouldn't say that.
 25 But looking at this, it's -- this is the problem

1 that we're dealing with. And I hope you can
 2 understand that I'm trying to convince you that this
 3 is the big part of the problem that we have here.
 4 Q Okay. And those are the two middle
 5 pictures that you discussed just a moment ago?
 6 A Yes.
 7 Q Now, directing your attention to the
 8 bottom two pictures, can you tell us what they show?
 9 A Right. The bottom picture in the
 10 center is standing at 20th Avenue where my house is.
 11 And what I did was, I took a picture of the water
 12 tower of Seaside Park.
 13 Now, I know that from my house to that
 14 boundary of Seaside Park, which would be two blocks
 15 towards me more, is about 400 meters, okay, which
 16 is, again, a quarter mile, one lap around the track.
 17 That's all I have to go to go to the adjoining town
 18 that I would like to be a part of.
 19 And, as I said, I thought by putting pictures
 20 here, pictures, I mean, they say a thousand words,
 21 10,000 words. Just by looking at these pictures
 22 here, you can understand that my feeling of a town
 23 here, which is 400 meters from my house, how much
 24 easier would it be for me to be involved in the
 25 adjacent town.

1 Q And the last pictures on the right
2 side in the corner, what do they show?
3 A Okay. I had stated at a prior
4 meeting that the bay front was atrocious. And I had
5 gone to council meetings and asked them to clean it
6 up. And the bay front just doesn't get cleaned up.
7 So, what I thought I would do is, I thought I would
8 take a picture. And I know Mr. McGuckin asked me is
9 the -- are the rocks in the water? And I said,
10 yeah, the rocks are in the water all over the place,
11 as well as the shoreline. So, what I have here is
12 two pictures of the rocks on the shoreline at low
13 tide going right into the water. And that continues
14 along the beach, which --
15 Q Okay. If you're going to grab
16 something, we've got to mark it.
17 A Yes. I'd like to put this into
18 evidence also. This is what we're talking about.
19 MR. MICHELINI: Let's get it marked
20 first, okay.
21 THE WITNESS: Okay.
22 MR. MICHELINI: Let the court
23 reporter mark it.
24 (The Bag with one-foot rock was
25 marked as A-39 for identification.)

1 A Okay. And the reason why I did this
2 again --
3 Q Well, describe what it is first for
4 the record.
5 A Okay. First of all, this is, again,
6 spoils from sidewalks and spoils from curbing.
7 There's also spoils from asphalt.
8 Q Let me stop you. That's been marked
9 A-39, correct?
10 A Yes, it has.
11 Q Okay. Did you personally find that?
12 A Yeah, I just went down to the bay and
13 picked it up and thought, let me use it here to show
14 how bad the situation is. And this is one of the
15 smaller pieces that are down there. There are just
16 big pieces down there. And I had -- go ahead.
17 Q Let me stop you there. When you say
18 you went down to the bay, where exactly did you go?
19 At the end of what street?
20 A This is right between 23rd and
21 24th Avenue south of the wheelhouse -- north of the
22 wheelhouse Marina.
23 Q When did you do that?
24 A Before I came here.
25 Q You did it today?

1 A I just did it today, right.
2 Q So, it was kind of a spur of the
3 moment thing?
4 A Spur of the moment.
5 Q Tell us why you did that.
6 A Okay. I did that because our Bay
7 Beach is something where you cannot walk in the
8 water. For years, I have gone to the council, I
9 asked them to clean up the bay. And the bay --
10 since we are a beach community, and it doesn't get
11 done.
12 I look at the beaches in Seaside Park on the
13 bay side. They're white sand beaches. You can walk
14 without shoes on. Yet, my beach, I have to have
15 sneakers on. And I feel if I'm part of
16 Seaside Park -- I realized I went to the council
17 meeting and it went on deaf ears.
18 Being part of Seaside Park, I know that this
19 would be cleaned up, again, to get pristine bay
20 beaches. I mean, we have a responsibility to at
21 least give our residents of South Seaside Park an
22 area where they could go into the water and swim, go
23 crabbing and enjoy the bay front, but we can't do
24 it.
25 Q Okay. So, last time -- I don't want

1 to go over testimony that you testified to before,
2 but there was some question about a Seaside map?
3 A Yes.
4 Q That has already been marked in
5 evidence, so I'm not going to remark it.
6 A Right.
7 Q But you have copies. Let's see if we
8 have the -- I believe it was marked A-3 in evidence.
9 A Mr. McGuckin asked for a lot of maps
10 to be made up --
11 Q Okay.
12 A -- you know, and so I made up a dozen
13 of them.
14 Q Where did -- this is previously
15 marked as A-3 in evidence. So --
16 A Yes.
17 Q -- can you tell us -- I'm going to
18 leave one with you.
19 A Yes.
20 MR. MICHELINI: And you had asked
21 for, I believe one of you had asked for copies. I
22 don't remember who it was. But if you could pass
23 those around.
24 Q And then you can tell us what --
25 where you found that map and any additional

1 information you want to tell us about it.
 2 A Right.
 3 MR. WISER: Excuse me. There's some
 4 papers here. I guess they're not supposed to be
 5 part of this.
 6 MR. MICHELINI: I'm sorry. They're
 7 not supposed to be part of that. Thank you.
 8 THE WITNESS: All right. I'll wait
 9 till everyone gets a map.
 10 (Off the record.)
 11 A Okay. I had this map and I enlarged
 12 it. Mr. McGuckin said, you have two pieces of map,
 13 isn't that right, Mr. Whiteman? And I'm not going
 14 to lie. You're absolutely right. So what I had to
 15 do is go back into the archives. And now this is
 16 the original size map that was in the archives about
 17 Seaside Park. And now if you look to the right --
 18 Q When you say archives, where did you
 19 find it?
 20 A I went into the Historical Ocean
 21 County, New Jersey Maps, which is the mapmaker of
 22 also Rutgers. And here is the maps. I guess you
 23 want to --
 24 Q You found that on a website,
 25 Historical Ocean County, New Jersey Maps?

1 A Right.
 2 Q which is Mapmaker.Rutgers.edu?
 3 A That's correct.
 4 Q Ocean, Old Ocean County html,
 5 correct?
 6 A That is correct.
 7 Q And so, in that historical collection
 8 of maps that Rutgers has on display on their
 9 website, one of their websites --
 10 A Yes.
 11 Q -- you found this map, correct?
 12 A I found this map. And what had
 13 happened, if you look at this map, you'll notice,
 14 you'll see North Avenue. And then if you look all
 15 the way to the left, you'll see 24th Avenue. And
 16 what this says is the Seaside Park at the top. And
 17 then it says Island Beach, which was the name of the
 18 beach area. It wasn't Island Beach State Park.
 19 That part of the peninsula was known as Island
 20 Beach. And what happens -- in Ocean County. And
 21 this is the map of the said setup that was supposed
 22 to be occurring for Seaside Park. I had mentioned
 23 that there was a boundary mistake at one time. And
 24 looking through this, I'm saying to myself bingo.
 25 This at least gives an idea of what I said prior to

1 the board here about there was a boundary error,
 2 because Seaside Park was supposed to extend all the
 3 way to 24th Avenue.
 4 Q According to that map?
 5 A According to this map.
 6 MR. MCGUCKIN: Let's be clear. You
 7 made that supposition and thought based upon this
 8 map because it says Seaside Park on it?
 9 THE WITNESS: Yes.
 10 MR. MCGUCKIN: Okay. And you think
 11 that means that this was supposed to be Seaside
 12 Park. And do you have anything to support that
 13 theory, other than the map itself?
 14 THE WITNESS: Just the map I have.
 15 Just the map.
 16 MR. MCGUCKIN: Okay. Thank you.
 17 Q And the map appears as a single unit,
 18 even though it's got a dividing line down the
 19 center --
 20 A Yes.
 21 Q -- on the website, on the --
 22 A On the website.
 23 Q -- on the Rutgers website, which is a
 24 collection of historical maps, correct?
 25 A Yes, it is.

1 Q All right. So, that division isn't
 2 something that you put there?
 3 A No.
 4 Q The map appears together as a single
 5 piece just as we've handed it out and as it appears
 6 in A-3, essentially, as it was marked on the Rutgers
 7 website, correct?
 8 A That is correct, yes.
 9 Q All right. Now, you previously
 10 testified about a letter or a phone call that you
 11 made to DOT about road vacation. And I believe
 12 you'd like to expand on that testimony, correct?
 13 A Yes, I would. I had -- I was the one
 14 that -- I was the one that mentioned that there was
 15 property that was being vacated on Central Avenue.
 16 And Mr. McGuckin asked me, well, you made a -- how
 17 did you get in contact?
 18 I said, I made a phone call. And when you're
 19 up here, you know, you're trying to think what you
 20 did. And all of a sudden, after everything was
 21 done, I, on the way home, remembered, no, I sent a
 22 letter out to the, Mrs. Palmer, who was part of the
 23 Route 35 construction, concerning that.
 24 Q Okay. So, what area are we talking
 25 about?

1 A I have -- the area was the northern
2 part of Route 35 where the trailers are in South
3 Seaside Park.
4 Q So, when you come into South Seaside
5 Park, we're talking about an area of trailers on the
6 right-hand side as you head south, correct?
7 A Yes, on the right-hand side.
8 Q Okay. And you had talked about, in
9 your testimony, about how that land, there was a
10 request to vacate that land?
11 A Yes.
12 Q And you felt that that was not
13 correct because that is public land and you thought
14 maybe it could be used for some public purpose?
15 A Yes, I did.
16 Q And I just -- and if I've misstated
17 your testimony --
18 A No.
19 Q -- I'm just trying to move it
20 along --
21 A Yes.
22 Q -- so that we don't go over things
23 but we give the board context.
24 A I also stated that I thought it was
25 very -- I put a price on the property. And

1 Mr. McGuckin said, Mr. Whiteman, you are not an
2 appraiser to come up with that. So, with testimony,
3 or should I say, what I'd like to put in in
4 evidence, is the tax map of prices of property for
5 50 by 100 lots, as well as lots that are smaller and
6 larger, to show that it's very -- and I think we all
7 can agree -- it's very expensive property that is
8 looking to be vacated.
9 Q Okay. Let me just stop you right
10 there. We'll get a couple of things marked.
11 So, let's mark these three things.
12 If you want to mark them as a single exhibit -- no,
13 you better mark them separately --
14 A Excuse me, Joe. This is everything I
15 sent to them in the letter.
16 Q Okay. All right.
17 A This is the whole thing I sent to
18 them.
19 Q And you got the letter on top?
20 A That's the -- I didn't send it. I
21 faxed it.
22 Q Okay. All right.
23 A That's the -- yes.
24 Q All right. So, we'll mark this as a
25 single exhibit which is a faxed letter with

1 attachments.
2 A Yes, that's the exact.
3 MR. MCGUCKIN: How many pages?
4 MR. MICHELINI: Five pages.
5 (The Fax cover sheet and letter to
6 Ms. Palmer was marked as A-40 for identification.)
7 Q Just to put it in context, A-40
8 consists of the fax cover sheet plus the letter that
9 you sent to Ms. Palmer. Who is Ms. Palmer?
10 A Uh-hum. Ms. Palmer is one of the
11 individuals that are, I guess, supervisor with the
12 Department of Transportation.
13 Q Okay. And that was at the State of
14 New Jersey?
15 A State of New Jersey, yes.
16 Q All right. And attached to that is
17 an agenda from the council meeting of Monday
18 November 24, 2014 or -- correct?
19 A Yes, which states that they wanted to
20 do the road exchange -- not exchange, road vacation.
21 Q All right. And then beyond that is
22 the --
23 A Tax road.
24 Q -- tax map with -- highlighted with a
25 large rectangular yellow block which shows the area

1 proposed to be vacated, correct?
2 A Right, yes.
3 Q And then another copy of the tax map
4 which is simply --
5 A The other half, yes.
6 Q -- the other half of the -- of South
7 Seaside Park?
8 A Yes.
9 Q Okay. So --
10 A Want this with the values?
11 Q No. You didn't send that, did you?
12 A No, I didn't send that.
13 Q Okay. So, A-40, I know you testified
14 that you made a phone call. But in actuality, you
15 wrote a letter to the DOT?
16 A I did make a phone call.
17 Q Okay.
18 A But what they told me was, if you
19 have any information, please send it to us. And
20 they gave me the address.
21 Q All right. And so this letter was
22 sent objecting to the vacation of a portion of land
23 upon which, apparently, there are trailers and but
24 which --
25 A It's owned by the town, right-of-way,

1 yeah.
 2 Q -- which is public land within the
 3 right-of-way. And what was the purpose of your
 4 having sent this letter?
 5 A Well, the purpose --
 6 MR. MCGUCKIN: Let me stop you for
 7 one second. I think that was a question that was
 8 brought up at the initial hearings. Is it a
 9 right-of-way or is it land owned in fee simple by
 10 the township? Because he's testifying it's land
 11 owned by the township. But my recollection was that
 12 this was a right-of-way. And there's a big
 13 difference.
 14 MR. ORIS: Through the Chair. And to
 15 add to that. Mr. Whiteman, the request for
 16 right-of-way vacation, that was put forth by an
 17 in -- an individual property owner, the trailer
 18 owners, correct?
 19 THE WITNESS: Yes.
 20 MR. ORIS: So, the town was not
 21 proposing to vacate the right-of-way? It was the
 22 trailer park owner, correct?
 23 THE WITNESS: The trailer park owner
 24 did go to the town --
 25 MR. ORIS: They requested --

1 THE WITNESS: -- and requested it.
 2 MR. ORIS: They requested it?
 3 THE WITNESS: Yes.
 4 MR. ORIS: And the matter that was in
 5 front of the governing body was being put forth by
 6 the trailer park owner and the governing body was
 7 considering their request?
 8 THE WITNESS: Right. It was the
 9 second --
 10 MR. ORIS: Well, the --
 11 THE WITNESS: -- the first reading.
 12 And then there was a second reading on it, which
 13 that's when --
 14 MR. ORIS: But to be clear, it was
 15 not the town's request? It was the trailer park
 16 owner's request?
 17 THE WITNESS: To have the property,
 18 yes. But they then decide whether to do it or not,
 19 the town.
 20 MR. ORIS: And did they make a
 21 decision?
 22 THE WITNESS: I don't know as of
 23 today. I have no idea.
 24 MR. ORIS: They did not. I can tell
 25 you they did not.

1 THE WITNESS: Okay.
 2 MR. ORIS: And the application I
 3 believe is no longer in effect due to the -- which
 4 is the -- so, it had transpired over more than --
 5 more than a calendar year. And I believe the
 6 applicant is no longer seeking that request.
 7 THE WITNESS: Thank you.
 8 MR. MICHELINI: And what is currently
 9 on that land right now that is -- I think it's in
 10 the right-of-way, Mr. McGuckin. I'm not --
 11 MR. MCGUCKIN: I think it is, too.
 12 That's why I bring that up. Because the
 13 right-of-way, the township does not have the legal
 14 right to build something on it. We can build a road
 15 on the right-of-way and, sure, improvements to
 16 transportation purposes, but we can't put a building
 17 on it. We can't put a field on it, if it's a
 18 right-of-way.
 19 MR. MICHELINI: But on the other
 20 hand --
 21 MR. MCGUCKIN: Because we don't own
 22 the underlying land.
 23 MR. MICHELINI: Sure. But on the
 24 other hand, the trailer owner shouldn't be able to
 25 maintain a trailer on it.

1 MR. MCGUCKIN: I believe there's some
 2 kind of litigation going on between the township and
 3 the trailer park owner. For the purposes of your
 4 request whether the township can vacate it or do
 5 something with it, if it is a right-of-way, the
 6 township does not have a right to build a park or
 7 build a building on it, they don't have legal
 8 authority to do that. Because we don't -- I'm sure
 9 Mr. Micheleni can explain it to you. The Township
 10 didn't own the land in fee underneath it. The only
 11 thing we can use it for is a road. If we can't use
 12 it for a road, we can't use it at all. We would
 13 have to vacate it and it would go to each property
 14 on either side. And if that's the same individual,
 15 they would get it. But we can only use it for a
 16 road. We can't put -- the township cannot put
 17 something on a right-of-way, a building or anything
 18 else, if they don't own the land underneath.
 19 MR. MICHELINI: Because it's not
 20 center of Central Avenue, it, quite frankly, it's
 21 difficult to tell if it's -- if it's a right-of-way
 22 or not. It's off of Central Avenue.
 23 MR. MCGUCKIN: Title company would be
 24 able to tell us.
 25 MR. MICHELINI: Yeah, that may be a

1 title issue. I understand what you're saying in
 2 terms of the law. I think Mr. Whiteman's point is
 3 simply that the town shouldn't have simply looked to
 4 vacate it. Apparently, they're not doing that,
 5 according to Mr. Oris.
 6 MR. PETERS: Just so we're clear, the
 7 town didn't look to vacate.
 8 MR. MICHELINI: No, no, no. They --
 9 I'm not saying what --
 10 MR. PETERS: The town had an
 11 application that someone made that they're obligated
 12 to act on.
 13 MR. MICHELINI: I'm not saying that
 14 the town made the application. What I'm saying is,
 15 there was support to vacate it. And, obviously,
 16 somebody backed off that support.
 17 MR. MCGUCKIN: What do you mean
 18 support? I don't understand what you mean by
 19 support.
 20 MR. BACCHIONE: We never voted on
 21 this.
 22 MR. ORIS: Through the Chair, if I
 23 may.
 24 I'm sorry, Mr. Bacchione.
 25 MR. BACCHIONE: I'm sorry. Go ahead.

1 I'm out of line.
 2 MR. ORIS: No, you're not. I'll back
 3 off.
 4 MR. BACCHIONE: I just sit here and
 5 listen to the remarks about the council, which I'm
 6 part of, and there was never any vote on vacating
 7 this property.
 8 MR. MICHELINI: We thank you for
 9 that.
 10 MR. BACCHIONE: Well, so, what's the
 11 point you're making here tonight?
 12 THE WITNESS: The point I'm making
 13 is, real quick, that it was expensive land and I
 14 have every right --
 15 MR. BACCHIONE: That's your opinion.
 16 THE WITNESS: Wait a minute. No, it
 17 is.
 18 MR. BACCHIONE: That's your opinion,
 19 because there was no survey or there was never
 20 appraisal done on the property. And I don't think,
 21 Mr. Whiteman, you are an appraiser. If you are, I
 22 apologize.
 23 THE WITNESS: No, but I would like to
 24 put this into evidence, the tax map that has
 25 property in South Seaside Park from 50 by 100, to 25

1 by 100 to larger property with prices on it.
 2 MR. MCGUCKIN: The reason that would
 3 not be relevant is because it appears this is a
 4 right-of-way.
 5 MR. BACCHIONE: Correct.
 6 MR. MCGUCKIN: If you can establish
 7 that it's owned by the township in fee, that might
 8 be relevant. But our understanding is, it was a
 9 right-of-way, because the ordinance was to vacate a
 10 right-of-way, not to sell land. If we wanted to
 11 sell land, that would be a different story. We
 12 can't give away land. We can vacate a right-of-way
 13 for free. We can't charge people for it.
 14 MR. MICHELINI: Yeah. Okay.
 15 MR. MCGUCKIN: So, if you can
 16 establish at some point in time that it's owned in
 17 fee by Berkeley Township, the issue of whether other
 18 lots and what they're worth would be relevant. If
 19 it is a right-of-way, it doesn't have any such
 20 value, because the only thing that can go on it is a
 21 road.
 22 MR. MICHELINI: Okay. Understood.
 23 Thank you.
 24 MR. MCGUCKIN: Thank you.
 25 MR. MICHELINI: You can move on to

1 the next issue that you wanted to discuss. I know
 2 you had a couple of things that you just wanted to
 3 clean up.
 4 THE WITNESS: Yes.
 5 MR. MCGUCKIN: I'm sorry to
 6 interrupt. Could we mark A-38? I know we marked --
 7 MR. MICHELINI: A-38 was already
 8 marked.
 9 MR. MCGUCKIN: -- but we never
 10 discussed what it was.
 11 MR. MICHELINI: It wasn't discussed.
 12 If you want to mention that.
 13 MR. MCGUCKIN: Only that it's marked.
 14 MR. MICHELINI: Yeah, go ahead.
 15 Q Why don't you discuss -- first of
 16 all, tell us what A-38 is.
 17 A All right. A-38, A-38 is in
 18 Seaside Park, again, their second Bay Beach
 19 playground that they have up on the north part of
 20 town.
 21 Q Okay. So, this is a series of
 22 photographs, correct --
 23 A Yes.
 24 Q -- one, two, three, four, five, six,
 25 seven, eight -- mounted with some prose which shows

1 the Seaside Park park area, the beaches, correct?
2 A Uh-hum. Yes, it shows the Bay Beach,
3 same Bay Beach.

4 Q Those are recent, recently taken
5 photographs that accurately depict the area as it
6 exists today?

7 A Yes, it is. Recently, this past
8 month.

9 VOICE: Two days ago.

10 Q Two days ago, okay. So -- and the
11 purpose of showing this is, what is the purpose of
12 having A-38?

13 A The purpose of having A-38, again,
14 is, I have said in the past that recreation is nil
15 when it comes to playgrounds over here in South
16 Seaside Park. And, again, I look at an adjacent
17 town, I've gone up there and played basketball up
18 there at their basketball courts before they, how
19 can I say it, before the courts down here on 24th
20 Avenue were completed. But I have played basketball
21 up here. I've utilized, gone up there, walked.
22 It's a very nice beach area and nice sandy beach.
23 I've crabbed up there off that area. To me, I think
24 we deserve and we haven't got something like this in
25 our South Seaside Park area.

1 Q Thank you. Now, last time we were
2 here, we talked a little bit about July 4 of 2013 --
3 we'll get back to that --

4 A Okay.

5 Q Following Superstorm Sandy, if you
6 would, supplement any issues that you want on
7 Superstorm Sandy, but try to keep them brief. And
8 then you can talk about July 4 and supplement the
9 testimony that was previously furnished.

10 A Okay. I sat in the audience and
11 listened to whether the beaches or boardwalks were
12 open July 4. I can honestly tell you, I took my
13 bike before July 4. I walked the boardwalks of
14 Seaside Park and Seaside Heights, as I do every
15 summer. With that in mind, I thought to myself,
16 well, when I come up here, I would just like to
17 emphasize that our beaches in South Seaside Park,
18 the beach ends were not open except one.

19 What I had to do is, I had to walk over
20 pilings. I had to walk over wood. I had to get to
21 the beach. In other words, coming to and from the
22 beach, it was horrible, the entrances. Why am I
23 bringing this up? I look at Seaside Park. I look
24 at Seaside Heights. I look at Lavallette. They did
25 have -- and they're a beach community. They knew

1 that they had to get their beaches in line and their
2 beaches open and boardwalk. And by golly, they did
3 it.

4 I feel, again, because Berkeley Township
5 looks at, and with the area over in South Seaside
6 Park, as something that we will get to it in due
7 time. Now, if three communities can have their
8 beaches open -- and Ortley Beach or Toms River
9 Township also had the north end of their beaches
10 open more than one street -- why didn't we have more
11 than one street open? Why did our people on July 4,
12 as well as a week before and week after, have to
13 tumble over, step over wood, pilings and everything
14 that went on to just tractors on the beach? This
15 should not have occurred then.

16 A beach community has to get this done prior
17 to the opening season. Berkeley Township again is
18 negligent on that, in getting it done. And I have
19 here from the website, Jersey Shore Guide, talking
20 about the ocean beaches in those towns I mentioned
21 were open. The only one that had a partial opening
22 was, of the four that I mentioned, was Ortley Beach.
23 But Berkeley Township is not even mentioned here in
24 the Jersey Shore Beach Guide. But I'll tell you
25 right now, they had one entranceway that was clean

1 that you could walk up on, while the other entrances
2 were just again in disrepair.

3 Q And that was shown in the
4 photographs that Judy Erdman testified to last time,
5 correct?

6 A Yes, that was shown in the
7 photographs that Ms. Erdman showed to you. And I
8 wanted to come up here and tell you yes, I walk.
9 I'm a walker now. I'm not a runner. I walked that
10 beach or boardwalk. I rode that boardwalk all the
11 way up to the end and came -- turned around and came
12 back. And what I have here is information about
13 Lavallette boardwalk, a big --

14 Q I'm not going to -- I don't think the
15 board is --

16 A You don't want it?

17 Q Yeah. I mean, I -- your testimony
18 that you saw these things and --

19 A Okay.

20 Q -- we'll make those available if the
21 board would like to see them. I'm sure the board
22 accepts your representations in that regard.

23 Anything else that you want to mention in
24 terms of either a supplement to prior testimony,
25 without going back over prior testimony, or in

1 addition to prior testimony that clarifies something
2 that was previously said?

3 A Yes. During Hurricane Sandy -- and
4 it was horrible. I was one of the ones that stayed
5 around. We had 75 people that stayed in South
6 Seaside Park. I knew all the first responders were
7 gone, so people are going to stay, you want to have
8 people at least who can help out. I feel I'm
9 healthy enough to help people out if something
10 happened and there were other people like that. But
11 I went up to the -- Sunday, I went up to Central
12 Avenue and there was a Berkeley Township bus there.
13 I made it a point to go up and ask the bus driver,
14 why do you have a bus here? We're picking up
15 people. If they can't leave, we have a bus here. I
16 said, well, none of us know about it. Well, I'm
17 just told to drive over, wait here and if anybody
18 needs a ride I can take them.

19 I understand the idea of a storm. This is a
20 first round. But I look at it and I say to myself,
21 in a situation like this, a notification should have
22 been made to individuals who were still -- and there
23 was more than 75 that were still living there.

24 Seaside Park has a phone notification. We
25 really -- and I'm just again saying, we didn't have

1 anything like that. And --

2 Q what does their phone notification
3 do, if you know?

4 A We get calls from Seaside Park about
5 events that are occurring in town, about flooding
6 that may occur. And we're on Seaside Park's phone
7 list, as opposed to being on Berkeley's phone list.
8 Because I think, again, Seaside Park community is,
9 basically, 400 yards from me, 400 meters from me.
10 And I think what they have to tell me is very, very
11 apropos to what's going on in my town, as well as
12 their town.

13 Q Anything else you want to
14 mention?

15 A I will say something else. There was
16 a question whether the police came down the street
17 or not. All right.

18 I can honestly you tell that on Barnegat
19 Avenue, the police came down with their horn to say,
20 you know, we want you to evacuate. They may not
21 have gone down all the streets. I have no idea.
22 But in front of my house, I did talk to the officer.
23 And he, basically, did tell me that evacuation was
24 something that was going to occur, you know, and you
25 should leave. And I said, well, we're opting to

1 stay to help people out. Because I know, you know,
2 the storm here, there'll be older people who may not
3 have heard it or for some reason -- I just said, I
4 think some of us will be staying.

5 Okay. Another thing I'd like to correct.
6 I'm almost done, too. Mrs. Fulcomer talked about
7 the paving of Gerard and North Roberts and South
8 Roberts Avenue. And Roberts Avenue was paved about
9 ten years ago, okay, not three years ago or two
10 years ago. Gerard was the one that was the road
11 that was paved most recently.

12 Now, why am I bringing that up? I am
13 bringing that up, again, we are a beach community.
14 They came in and paved the road in the middle of the
15 summer. You can't do that in a beach community,
16 okay. Mainland, maybe you can do that. But when
17 you have an influx of so many people, you have to
18 think if you want things done, you have to think,
19 because it's two different areas, it's going to
20 affect people differently in both areas.

21 And, again, I wanted to bring that up for
22 that idea of saying that, looking at our area, it
23 has to be looked differently than -- and it has been
24 looked differently. It's been all thrown together
25 and we'll do it now and we're going to do it this

1 way.

2 Q Okay. What else?

3 A All right. One more thing here.
4 Just give me one second.

5 All right. The last thing I'd like
6 to say is -- and I know -- okay. I know that when I
7 come over here to talk to you, my job is to try to
8 convince you that there are definitely a problem
9 here and that, hopefully, you can see what we feel,
10 okay, being a community that is apart from the
11 mainland. There are definite problems that we have.
12 And I hope you can understand that. I want to be
13 part of a community that's adjacent to me.

14 I came over here, it took me almost
15 40 minutes to get here. I talked for a half hour.
16 It's going to take me another 40 minutes to go home.
17 I think it's so important that I'm here. When I go
18 to council meetings, I do drive the 40 minutes.

19 You changed the times to six o'clock.
20 That's real -- and I guess you feel that six o'clock
21 was good. But it puts us in a position that when we
22 come over here, we have to deal with the traffic on
23 the Parkway coming home or going through Toms River.
24 It doesn't help us out.

25 A seven o'clock meeting helps us out

1 because we bypass the traffic. So, when you make
2 these decisions, you're making a decision based upon
3 a community here on the mainland without thought of
4 what we go through here to get to these meetings.

5 I think I'm just going to leave you
6 with this, that comparison here, okay. And I've
7 given the comparison of what it's like on the beach
8 as opposed to the mainland. Why I want to be part
9 of Seaside Park. Why I don't want to continue to be
10 part of Berkeley Township.

11 And I just hope you'll just listen.
12 Review everything here. And look at Mr. Whiteman
13 and say, you know, he made some really good points
14 here. And I can see his -- what's going on here, I
15 understand. Because it is something that's very
16 difficult for us.

17 And I'm not getting any younger
18 either. I am a senior citizen, so I fall into that
19 category now, 63. So, again, I would hope that you
20 would look at the information here and say, you
21 know, yeah, I think they deserve a right. They
22 deserve a chance to be part of a local community.
23 And just like back in the '70s where they had an
24 opportunity, we're just asking you to give us the
25 opportunity to do the same thing.

1 MR. MICHELINI: Thank you. Thank you
2 very much.

3 I'll talk to Mr. McGuckin and we'll
4 figure out when we can get a two hour slot for
5 professional testimony.

6 THE WITNESS: Thank you very much.
7 (Matter adjourned.)
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C E R T I F I C A T E

I, LINDA SULLIVAN-HILL, a Notary
Public and Certified Court Reporter of the State of
New Jersey, do hereby certify that the foregoing is
a true and accurate transcript of the proceedings as
taken stenographically by and before me at the time,
place and on the date hereinbefore set forth.

~~Notary Public of the State of New Jersey~~
My Commission expires January 26, 2016

Dated: June 25, 2015

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