

1 TOWNSHIP OF BERKELEY
 2 PLANNING BOARD
 3 -----
 4 IN THE MATTER OF:
 5 SOUTH SEASIDE PARK HOMEOWNERS
 6 AND VOTERS ASSOCIATION
 7 DE-ANNEXATION PETITION HEARING
 8 -----

7 Pinewald Keswick Road
 8 Bayville, New Jersey
 9 Thursday, February 1, 2018
 10 6:55 p.m.

11 B E F O R E:

12 Robert Winward, Chairman
 13 John Bacchione, Councilman
 14 Nick Mackres, Member
 15 Richard Callahan, Member
 16 Brian Gingrich, Member
 17 Frederick Bell, Member
 18 Domenick Lorelli, Member
 19 Jack Wiegartner, Member

23 -----
 24 LINDA SULLIVAN-HILL & ASSOCIATES
 25 CERTIFIED COURT REPORTERS
 46 SOUTH LAKEVIEW DRIVE
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2 APPEARANCES:

3 DASTI MURPHY, MCGUCKIN, ULAKY,
 4 CHERKOS & CONNORS, ESQS.
 5 620 W. Lacey Road
 6 Forked River, New Jersey 08731
 7 BY: GREGORY MCGUCKIN, ESQ.
 8 Attorneys for the Board
 9 O'MALLEY, SURMAN & MICHELINI, ESQS.
 10 17 Beaverson Blvd.
 11 Brick, New Jersey 08723
 12 BY: JOSEPH MICHELINI, ESQ.
 13 Attorneys for the Petitioners

13 ALSO PRESENT:

14 Kelly Hugg, Secretary
 15 Ernie Peters, Engineer
 16 Nick Dickerson, Planner
 17 Stuart B. Wiser, Planner
 18 Rodney Haines, CPA

I N D E X

2	NAME OF WITNESS	PAGE
3	STANLEY C. SLACHETKA	
4	BY MR. MICHELINI	4

E X H I B I T S

11	NUMBER	DESCRIPTION	PAGE
12	A-79	E-mail dated April 10, 2015	14

1 MR. WINWARD: We're going to now
 2 start the next portion of our meeting, the
 3 de-annexation hearing of South Seaside Park.
 4 MR. MICHELINI: Good evening. Joseph
 5 Michelini from O'Malley, Surman & Michelini on
 6 behalf of the petition signers from the
 7 South Seaside Park Homeowners and Voters
 8 Association.

9 You may recall, it was several months
 10 ago that Mr. Slachetka testified. And I think he
 11 testified at two meetings nonstop, uninterrupted.
 12 And then I think I crossed him for an entire
 13 meeting. At the end of that, Mr. Winward indicated
 14 that the time was up. I said I may have a few more
 15 questions, but, basically, I'm done. And Mr. Wiser
 16 indicated that he had cross-examination questions
 17 that he wanted to ask. So, with that in mind, I
 18 think it's appropriate that I ask Mr. Slachetka a
 19 few questions, as I indicated that I had. And then
 20 we'll turn it over to Mr. Wiser. Okay. Okay.

21 STANLEY SLACHETKA, recalled.

22 EXAMINATION BY MR. MICHELINI:

23 Q Mr. Slachetka, you can -- you're
 24 still under oath?

25 A Yes.

1 Q You realize that?
 2 A Yes, I understand.
 3 Q And you can remain seated.
 4 A Yeah, I would appreciate that.
 5 Q Just going to, because it's been
 6 literally months, I think the last time you
 7 testified was maybe November.
 8 A Yeah, I think you're right. It was
 9 November. Yeah, I think November was the last.
 10 Q And you testified for two meetings
 11 before I cross-examined you, so I think it was a
 12 total of three meetings that you testified at. Is
 13 that your recollection?
 14 A That's my recollection, yes.
 15 Q So, because of that, I'm going to go
 16 back just a little bit but not very much.
 17 You had testified that the duties of the
 18 planning board and the governing body in this
 19 de-annexation process were different. Do you recall
 20 that?
 21 A Yes, I do.
 22 Q In fact, they're separate. One is to
 23 compile a report and the planning board is to do --
 24 to gather information in an unbiased fashion,
 25 correct?

1 A That is correct.
 2 Q And then the governing body is to
 3 make a decision on the issue of de-annexation,
 4 correct?
 5 A That is correct.
 6 Q You would agree that as a -- as the
 7 planner for both the planning board and the
 8 township, that you are not to be an advocate in
 9 these proceedings, you're to provide an unbiased
 10 report; is that correct?
 11 A That is my understanding, yes.
 12 Q Okay. And during the pendency of
 13 these proceedings, as they were going on and people
 14 were testifying, did you get any indication from the
 15 township officials that they were opposed to the
 16 idea of de-annexation?
 17 A Not directly to me that they
 18 suggested they were opposed. Again, my role here as
 19 the professional, they basically -- their direction
 20 was, do your role as a professional, essentially.
 21 Q So, no one ever invited you to a
 22 meeting, let's say to strategize about how you're
 23 going to rebut the petitioners' testimony?
 24 A Not, not directly to me in terms of
 25 rebutting. But, you know, what is -- what's my

1 role, what is my responsibility for presenting to
 2 the board.
 3 Q And it would not be in the interest
 4 of fairness or being unbiased for you to try to meet
 5 with township officials for the purpose of rebutting
 6 the petitioners' testimony, correct?
 7 A No, other than gathering information.
 8 I think my expectation and everything that I've
 9 represented to individuals, whether municipal
 10 officials or planning board officials, is, these are
 11 my professional opinions. And I'll form an
 12 independent perspective and present my position to
 13 the board.
 14 Q And your position to provide an
 15 unbiased opinion in this situation, would -- that
 16 would also be the same requirement of Mr. Wiser,
 17 Mr. Haines, if he testifies, Mr. Oris, et cetera,
 18 the other planning board professionals.
 19 MR. MICHELINI: To the extent that he
 20 knows.
 21 MR. MCGUCKIN: I didn't say anything
 22 the first couple. You're asking him legal
 23 conclusions at this point about other people. If
 24 you want to ask him about him, I don't have a
 25 problem.

1 MR. MICHELINI: Well, I'm asking
 2 about --
 3 MR. MCGUCKIN: But as far as his
 4 legal opinion of what other people's roles are, I
 5 don't think that's appropriate.
 6 MR. MICHELINI: Well, I think it is
 7 appropriate.
 8 Q So, to the best of your knowledge,
 9 were you ever invited to a meeting to get together
 10 with the township during the pendencies of this
 11 proceeding to rebut the petitioners' testimony?
 12 A Well, as I indicated to you in my
 13 prior testimony, that I did very early on in the
 14 process attend a meeting with township officials.
 15 And I think I shared the, essentially, the content
 16 and the substance of that meeting as far as -- as
 17 far as to my understanding.
 18 Q Okay. That meeting that you're
 19 referencing was a meeting to basically go over the
 20 procedures of what would happen, correct?
 21 A That's correct. And in terms of
 22 what's the role, the process and, you know, based
 23 on, you know, the role of the board with regards to,
 24 to de-annexation, that's correct.
 25 Q I recall, from just reading your

1 testimony today actually, that meeting occurred
 2 around December of 2014, early in the process?
 3 A Yeah, 2014.
 4 Q After that, were you invited to a
 5 meeting, specifically by township officials, to
 6 rebut the testimony of the petitioners' testimony?
 7 A I don't recollect a -- certainly not
 8 a meeting to rebut. I think I might have mentioned
 9 in my prior testimony, there could have been a
 10 second meeting that I attended. But I only -- I
 11 specifically recollect that first meeting at the end
 12 of 2014. I don't recollect if I was invited to
 13 another meeting.
 14 Q And if you were invited to such a
 15 meeting, that would not -- that would go contrary to
 16 your position to be unbiased and to judge this thing
 17 without being an advocate, correct?
 18 A No, that's -- actually, that wouldn't
 19 be correct. I would take the position at any such
 20 meeting that I would form independent, independent
 21 perspective and I would provide planning testimony
 22 that I thought was appropriate, given the analysis
 23 that I was doing. I respect -- and I think other
 24 people respect my position as a professional.
 25 Q So, my question to you is: After

1 that first meeting that occurred in, approximately,
 2 December of 2014, were you invited to attend a
 3 meeting specifically for the purpose of strategizing
 4 as to how to refute the petitioners' testimony?
 5 A Yeah, I don't recollect that that --
 6 that I was invited to such a meeting. And if I was
 7 invited to a meeting and if there was any intent by
 8 any of the participants with regards to, quote,
 9 rebutting the -- rebutting the position -- petition
 10 or arguing against it, again, my position and what I
 11 would represent in any such meeting, in any such
 12 discussion was, I would be doing my job as the board
 13 professional.
 14 Q Because you're supposed to be
 15 unbiased and you're not supposed to be working with
 16 the town officials to rebut the testimony of the
 17 petitioners, correct?
 18 A I mean, I couldn't --
 19 Q Please answer that. Is that correct?
 20 A I'm trying to answer your question.
 21 Q Okay.
 22 A I can provide a perspective in terms
 23 of our role or my understanding of the township
 24 planning issues but not -- that's -- that is the
 25 extent that I think is a foundation of my testimony

1 before the board is based on the factual
 2 information, the analysis that I presented in the
 3 report and my testimony. It doesn't really go
 4 beyond that.
 5 Q I understand what you see your role
 6 as. But what I'm asking you is, would that violate
 7 your ability to be unbiased, potentially, if you're
 8 asked to strategize with township officials on how
 9 to rebut the petitioners' testimony, before their
 10 case is all in even?
 11 A If any such discussions occurred at
 12 such a meeting, from my perspective, again, I know
 13 what my role is, I know how to conduct myself as a
 14 professional, that would not bias me or affect my
 15 testimony before this board.
 16 Q Would it be fair to say that, as an
 17 unbiased professional, you would not participate in
 18 a specific discussion to rebut the petitioners'
 19 testimony?
 20 A Whether any conversations took place
 21 that suggested or somebody took a position in a
 22 meeting that we need to stop the petition or we need
 23 to rebut the position, again, I know what my role
 24 is. I understand my role. I am a professional.
 25 And whether or not other people take positions or

1 opinions or have a different perspective on what
 2 their roles are, that does not affect me and has not
 3 affected me in this testimony.
 4 Q So, is it accurate to say that it's
 5 not your role to meet with township officials for
 6 the purpose of rebutting petitioners' testimony
 7 during the pendencies of the proceedings?
 8 A To the extent that I would need to
 9 understand the facts, understand the substantive
 10 issues that might be relevant to render an opinion
 11 to the board, I think there's a certain validity to
 12 understand that. But whether or not -- everybody
 13 has opinions. And everybody has a perspective on
 14 things. And there's going to be a whole variety of
 15 opinions on both sides of any particular planning
 16 issue. It's my role and responsibility as a
 17 professional to dissect that, to evaluate that and
 18 to come to render an opinion based on my
 19 professional opinion, based on the facts and the
 20 information. That's what ultimately this report is
 21 and my testimony before the board was.
 22 Q And how long did it take you to do
 23 that in preparing a report? At what point did you
 24 come to that?
 25 A Well, it's not any one specific point

1 in the process. It's an ongoing process. I think
2 we talked about the length of time from that 2014
3 meeting until the point in which the report was
4 prepared and I testified. So, it's an ongoing, it's
5 an ongoing process. It's not --

6 Q Sure. So, you can't --

7 A It's not defined by any specific time
8 limit.

9 Q It would be fair to say that, as an
10 unbiased professional, you took your time to come to
11 your conclusions, correct?

12 A That's correct. In fact, listening
13 to testimony before the board as well, researching
14 it, you know. It's, as you know, this is a pretty
15 complex issue. And it takes time. And, you know,
16 I'm sure that the board is hearing testimony and
17 maybe their positions and their understanding of the
18 issue is evolving as they get more information.

19 Q So, when did you finally prepare your
20 report? When was that?

21 A I don't recall. It was July 3rd,
22 2017, the report is dated.

23 Q So, if it fair to say that up until
24 then, you really -- up until the final report, it
25 was still a work in process and you hadn't made up

1 your mind entirely until the final report was out?

2 A That's fair to say.

3 Q Okay. So you weren't, a year before
4 that or two years before that, strategizing on how
5 to rebut the petitioners' testimony?

6 A Yeah, I think I've answered, answered
7 that question several times already.

8 Q Right. And the answer would be, you
9 were not doing that --

10 A No.

11 Q -- two years before, correct?

12 A No. That is correct.

13 Q Because you couldn't come to a
14 conclusion or didn't come to a conclusion until you
15 presented your final report in July of 2017?

16 A Yeah. And, as I said, if somebody
17 came up to me and said, we have to stop this
18 petition, it doesn't -- it's not relevant to me.
19 Because it's -- what's relevant is doing the
20 analysis and being thorough and taking the time
21 that's necessary to render an opinion.

22 MR. MICHELINI: Mark this in
23 evidence, please.

24 (The E-mail dated April 10, 2015 was
25 marked as A-79 for identification.)

1 Q I'm going to show you what's been
2 marked as A-79. Okay.

3 A Sure.

4 Q Okay. Just take a look at it without
5 commenting. I'll give you a moment to read it.

6 A Yeah, sure, not a problem.

7 MR. MCGUCKIN: Joe, what is it?

8 MR. MICHELINI: Pardon me?

9 MR. MCGUCKIN: Could you describe
10 what A-79 is?

11 MR. MICHELINI: Sure. I'll let him
12 read it first and then I'll describe it.

13 Q Mr. Slachetka, have you read that?

14 A Yes, I have.

15 Q And could you describe for us what
16 A-79 is?

17 A Yeah. Yes. It's a -- well, the top,
18 the top line is identified as Karen Stallings. But
19 it's identified as an e-mail from Christopher Reid
20 sent Friday, April 10, 2015, 12 p.m. It was sent to
21 Mr. Stuart -- well, sent to an e-mail
22 Stuart.Wiser@rve.com, Mcguckinesq, Greg McGuckin,
23 rhaines@hfacpas.com, James Oris and Stan Slachetka.

24 Q Okay. And there are cc's on that
25 e-mail, correct. Who are the cc's on the e-mail?

1 You can read those out loud.

2 A Are you talking about who this is
3 addressed to?

4 Q No. Who was it copied to? Who were
5 the cc's?

6 A Oh, I'm sorry. I apologize. Mayor
7 Carmen Amato; Fred Ebenau Actually, Fred Ebenau
8 twice; Karin DiMichele; John Bacchione; Judy Noonan;
9 Sophia Gingrich; Jim Byrnes; Tom Gross;
10 Angelo Guadagno; Anthony.DePaolo@Comcast.net.

11 Q What is the reference for the
12 subject?

13 A The subject line is SSP
14 De-annexation.

15 Q South Seaside Park, you could take
16 that to mean?

17 A I would assume so.

18 Q And the date again, April 10, 2015?

19 A 2015, that's correct.

20 Q So, this is almost three years ago
21 now?

22 A Uh-hum.

23 Q Yes?

24 A Yes.

25 Q Okay. And it seems to be from

1 Christopher Reid, although it has -- and it says,
 2 from Christopher Reid, but at the top it says
 3 Karen Stallings, correct?
 4 A That is correct.
 5 Q All right. And it's addressed to
 6 Greg. You would take that to mean Greg McGuckin?
 7 A I would assume so, yeah.
 8 Q Stuart, meaning Stuart Wiser?
 9 A I would assume so.
 10 Q Rodney, meaning Rodney Haines.
 11 R. Haines at the top, you see?
 12 A Yeah, I would assume so.
 13 Q Jim, meaning James Oris?
 14 A Again, that's my assumption.
 15 Q And Stan Slachetka would be you --
 16 A That's correct.
 17 Q -- correct? All of them being board
 18 professionals in conjunction with this matter?
 19 A That is correct.
 20 Q All right. And the e-mail, if you
 21 would read it out loud.
 22 A Yeah. Sure. Not a problem. It
 23 says, Thank you for the courtesy of your time during
 24 our most recent conversations. As you are aware,
 25 the de-annexation of the SSSP is a critical issue to

1 the TWP. I'm assuming township. Please plan a
 2 meeting to identify the material issues, review the
 3 completed hearings and create a strategy for the
 4 township portion of the hearing, including but not
 5 limited to, material items to refute from applicant
 6 testimony, documentation required, priority of
 7 testimony/witnesses for the township.
 8 Q Okay. I'll give you a copy. So,
 9 that is an e-mail sent almost three years ago?
 10 A Uh-hum.
 11 Q And you are one of the persons to
 12 whom it is addressed, along with the other township
 13 professionals?
 14 A Yes.
 15 Q Asking you to attend a meeting or
 16 plan a meeting to identify material issues, review
 17 completed hearings, presumably transcripts.
 18 A Right.
 19 Q Create a strategy for the township
 20 portion of the hearing, including but not limited
 21 to, material items to refute --
 22 A Yes.
 23 Q -- from applicant testimony,
 24 documentation required, priority of testimony/
 25 witnesses for the township. Signed by Mr. Reid,

1 correct?
 2 A That's what Mr. Reid wrote, yes.
 3 Q And what was Mr. Reid at that time?
 4 A He was the administrator for the
 5 township.
 6 Q Okay. And how about these other
 7 people? We know who Carmen Amato is, who it was
 8 cc'd to. And Fred Ebenau is, was the chief
 9 financial officer at that time?
 10 A The CFO, yes.
 11 Q And he still is today?
 12 A I believe so.
 13 Q And Karin DiMichele, she was the
 14 chief of police, correct?
 15 A Yeah, I believe so. Yes.
 16 Q And John Bacchione, he is the council
 17 member and also the council appointee on this
 18 planning board, correct?
 19 A Yes, he was. Or yes, he is.
 20 Q Who's Judy Noonan?
 21 A She's also another council member.
 22 Q And Sophia Gingrich?
 23 A I don't know who Sophia is.
 24 Q Do you know if she's the spouse of
 25 Mr. Gingrich, who sits on this board, or you don't

1 know?
 2 A I don't know off the top of my head.
 3 Q Who's Jim Byrnes?
 4 A He's a councilman.
 5 Q Who's Tom Gross?
 6 A That I don't know. I don't recollect
 7 his position.
 8 Q How about Angelo Guadagno?
 9 A I believe he was a council person,
 10 but I'm not certain.
 11 Q And Anthony DePaolo, wasn't he the
 12 chairman of this board at that time?
 13 A In 2015, yes, I believe he would have
 14 been.
 15 Q So, chairman of the planning board.
 16 So, this e-mail was sent to you and the other board
 17 professionals with copies to the council, it would
 18 appear, and others, such as Mr. Ebenau and the
 19 chairman of the planning board.
 20 MR. MCGUCKIN: I'm sorry to
 21 interrupt. But, just to be clear, you recall that
 22 Mr. DePaola was on the board, but then he went on
 23 the council.
 24 MR. MICHELINI: Okay. So, he may
 25 have been on the council at that time.

1 MR. MCGUCKIN: So, he wouldn't know
2 the answer to that question. We can find out when
3 he was on the council.
4 MR. MICHELINI: Okay.
5 MR. MCGUCKIN: It was about a year he
6 was on the council.
7 MR. MICHELINI: Okay. Well, that's a
8 fair comment. And I have six boxes in my office,
9 two of which have transcripts. So, I can go back
10 and look when I get back to my office.
11 Q So, Mr. DePaola may have been on the
12 council or he may have been on the planning board at
13 that time as the chairman?
14 A That's what I understand now from
15 what Greg had just indicated.
16 Q But, in any event, this was sent to
17 you. Having seen this, okay, now, you talked a
18 little while ago about a meeting from December of
19 2014. This is --
20 A In April of 2015.
21 Q So, it's four months later, right?
22 Having seen this, do you recall that there was a
23 meeting after this?
24 A Actually, I don't recall whether or
25 not there actually was a meeting. There could have

1 been. I don't recollect having attended that. But
2 it is possible that I could have. As I said, I
3 indicated that I might have attended a second
4 meeting. And that, that could be the second
5 meeting. But I'm not absolutely certain.
6 Q What was your response to this, if
7 you recall, or maybe you don't recall?
8 A Yeah, I don't think I specifically
9 responded to the -- to the statements here.
10 Q Did you pick up the phone and say or,
11 to someone, look, you know, I'm an unbiased
12 professional, I don't want to -- I don't want to sit
13 down at this point in the proceedings when the
14 testimony isn't even close to being in, three years
15 ago, and start plotting to refute the testimony of
16 the petitioners? Did you do that?
17 A Yeah, I don't recollect a specific
18 response that I made to this e-mail or a specific
19 conversation or discussion. However, you know, if I
20 did, that would be my position. And --
21 Q That would be your position, correct?
22 A Yeah. And as I indicated to you
23 before, I mean, a lot of people have opinions or
24 they put statements in. I know and understand what
25 my role and responsibility is, and I would carry

1 that out.
2 Q Did you write any e-mails in response
3 to this?
4 A I don't recollect if I specifically
5 responded to this e-mail.
6 Q But, certainly, as a professional,
7 unbiased professional, you feel that it would have
8 been inappropriate at this point in the proceedings
9 to start planning to refute the testimony of the
10 petitioners?
11 A Well, I think --
12 Q As the planner, correct?
13 A What I would suggest is that if this
14 e-mail was going out to multiple parties and some of
15 those parties were council people and, obviously,
16 they had positions and the township has a position
17 with regards to this, given the multiple individuals
18 that were on this e-mail, it's likely that whoever
19 is sending out the e-mail didn't completely or might
20 not have completely understood the very specific
21 roles and responsibilities of each of the parties.
22 All I can speak -- all I can do is speak to my
23 understanding and my roles and responsibilities.
24 Q And do you understand from this
25 e-mail that the township, at least as of April of

1 2015, had a position that they did not want
2 de-annexation?
3 MR. MCGUCKIN: No, absolutely
4 inappropriate question to ask the township planner.
5 MR. MICHELINI: It's a good question.
6 MR. MCGUCKIN: Absolutely not. He
7 can't speak for the township on that.
8 MR. MICHELINI: Based on his getting
9 this e-mail, he can --
10 MR. MCGUCKIN: Absolutely not.
11 Absolutely not.
12 MR. MICHELINI: -- he can say what
13 his understanding was. His perception of what the
14 township's position was. That's what I'm asking.
15 I'm not asking what the township's position was.
16 I'm asking him what his perception of the township's
17 position was based on this e-mail.
18 MR. MCGUCKIN: He's a planner.
19 MR. MICHELINI: He can answer that.
20 MR. MCGUCKIN: No, he can't. He's a
21 planner.
22 MR. MICHELINI: Sure, he can.
23 MR. MCGUCKIN: He's not a
24 psychologist. He's not a --
25 MR. MICHELINI: I'm not ask --

1 MR. MCGUCKIN: -- legal
 2 representative. He's not a legal representative of
 3 the township. He's a planner. You can ask him
 4 planning questions, not what other people, their
 5 opinions are or what their legal opinions are.
 6 MR. MICHELINI: I'm not asking what
 7 other persons' opinions are.
 8 MR. MCGUCKIN: You're asking what the
 9 township's position --
 10 MR. MICHELINI: I'm asking what his
 11 perception was of the township's position.
 12 MR. MCGUCKIN: What qualification
 13 does he have to give a perception of what other
 14 township officials had to say? He's a planner.
 15 MR. MICHELINI: He can certainly say,
 16 based on this, I understood that the township was
 17 opposed, after all, they want us to get together as
 18 professionals for this planning board to refute the
 19 testimony of the applicants when it isn't even in
 20 all the way.
 21 MR. MCGUCKIN: The e-mail talks about
 22 planning a meeting to identify the issues, review
 23 the hearings, create a strategy for the township
 24 portion of the hearing, as well as what you just
 25 indicated, limited to material items to refute

1 applicant testimony.
 2 MR. MICHELINI: Right.
 3 MR. MCGUCKIN: You will recall there
 4 was a lot of refutation of some of the testimony
 5 that was presented at the time of the initial
 6 application, factual questions. So, I don't think
 7 it's out of line. But I don't think it's
 8 appropriate for a planner to testify what the
 9 township thought.
 10 MR. MICHELINI: I'm asking him as to
 11 his perception of what the township thought.
 12 MR. MCGUCKIN: As a professional
 13 planner?
 14 MR. MICHELINI: Yes, as a -- as a
 15 recipient of this e-mail. And if you're telling me
 16 that you're not going to allow him to answer, that's
 17 fine. Let's just put it on the record, if that's
 18 your ruling.
 19 MR. MCGUCKIN: Mr. Chairman, I don't
 20 see how the township planner can testify as to the
 21 perception of the township was -- as to his
 22 perception of what the township's thoughts were.
 23 MR. WINWARD: I think given the
 24 nature of this document, since it wasn't
 25 specifically just sent exclusively to Stan, that he

1 really can't comment on the interpretations and
 2 perceptions of all the other people that it appears
 3 are mostly council members --
 4 MR. MICHELINI: I'm asking --
 5 MR. WINWARD: -- and the mayor on
 6 here. And I think you have made your point. It is
 7 on the record. So, I think maybe -- and Stan has
 8 several times in about 12 different ways in the last
 9 20 minutes, defined what he felt his role was. So,
 10 I think he has answered the question as far as his
 11 perception. He understands his role was to
 12 interpret, you know, the findings. But as our
 13 attorney said, the findings weren't even, and the
 14 testimony hadn't, at this point, even been entered
 15 into the record. So, you may be pretty much asking
 16 him to predict the future and future perceptions of
 17 what people are. I think you made a point, there
 18 is, you know, some wording in this e-mail that could
 19 be interpreted different ways. But I think it's
 20 time we, you know, move on to some more questions.
 21 MR. MICHELINI: All right. So, for
 22 the record, I'm not permitted to continue that line,
 23 correct?
 24 MR. WINWARD: Well, I think you're
 25 asking him to speak for others, and --

1 MR. MICHELINI: No, I'm not. I'm
 2 asking --
 3 MR. WINWARD: -- I think he needs to
 4 speak for what his role is.
 5 MR. MICHELINI: I'm simply asking
 6 what his perception, not others, what his perception
 7 of the township's position was with regard to
 8 de-annexation, as a result of the receipt of this
 9 e-mail.
 10 MR. MCGUCKIN: You're asking him what
 11 his perception of other people thought. Why would
 12 the township -- the township can only speak through
 13 the governing body at one time.
 14 MR. MICHELINI: I want --
 15 MR. MCGUCKIN: How can he possibly
 16 speak for the governing body?
 17 MR. MICHELINI: He can speak as to
 18 what his perception was at that time.
 19 MR. MCGUCKIN: Of the governing body?
 20 MR. MICHELINI: Of the township,
 21 generally, based upon the administrator writing this
 22 e-mail. Yes, he can speak to that.
 23 MR. MCGUCKIN: I disagree completely.
 24 MR. MICHELINI: Okay. So, you're not
 25 allowing me to ask any further questions. That's

1 what I want to get on the record.

2 MR. MCGUCKIN: On that issue, I don't
3 think it's appropriate.

4 MR. MICHELINI: Okay. Thank you. I
5 have no further questions.

6 MR. WISER: Thank you. Mr. Chairman,
7 I guess it's my turn.

8 MR. WINWARD: Yes, please proceed.

9 MR. WISER: I have a number of
10 questions from Mr. -- for Mr. Slachetka. I have a
11 number of questions for Mr. Slachetka. Some of
12 which are just clarifications in his -- from the T&M
13 July 3rd, 2017 report. Others are some -- asking
14 him to respond to some other comments that had been
15 made in testimony.

16 So, with that, page 13 of the report
17 in general and near the top, and I guess it carries
18 over from page 12. But, in any event, you say your
19 conclusion, after discussing the unemployment rate
20 in the town and the Census information related to
21 employment, is that de-annexation would result in a
22 higher level of unemployment in Berkeley Township as
23 a whole, and shrinkage of the labor force. You talk
24 about labor, that the population of South Seaside
25 Park is overwhelmingly, under the census, employed

1 and that there is a higher unemployment rate for the
2 township as a whole.

3 The question I have is: Given the
4 retirement communities, wouldn't you expect the
5 unemployment rate for the mainland to reflect a
6 larger number of the population being unemployed or
7 did that -- or did your -- did you correct for that
8 in any way?

9 MR. SLACHETKA: Well, unemployment is
10 measured in relationship to the work force. So, to
11 the extent that any individuals might be retired and
12 no longer in the work force or seeking employment,
13 that would be factored into the respective
14 unemployment rates. So, these -- so individuals
15 that are not in the work force are not going to be
16 factored into the unemployment rate.

17 MR. WISER: So, are you saying the
18 Census has already made that calculation and that
19 you didn't need to?

20 MR. SLACHETKA: Yeah. It's not the
21 question of the Census making that calculation.
22 It's the fact that that's how the rate is defined in
23 the -- from a statistical perspective. So, both the
24 Census and, you know, labor force information,
25 Department of Labor information, defines it as the

1 rate of unemployment in relationship to the work
2 force.

3 MR. WISER: Okay. Thank you.

4 Moving on to around page 21. And
5 then there's comments about the master plan. And
6 there's comments about the State Plan Endorsement
7 and CAFRA Coastal Consistency. And there were some
8 suggestions by the petitioners' planner that the
9 township's master plan is somehow deficient because
10 it didn't, in his opinion, appropriately take into
11 consideration South Seaside Park. With respect to
12 DCA and DEP and the plan endorsement process, if
13 there was some deficiency in the master plan related
14 to South Seaside Park or some other neighborhood,
15 would DCA or DEP or whatever other body have
16 approved the plan endorsement plan?

17 MR. MICHELINI: I'm going to object.
18 How could he possibly know? It's a hypothetical.
19 He doesn't know. It's speculative. I mean, I can't
20 ask questions about what his perception of the
21 township was when he's meeting with these people to
22 discuss refutation of the petitioners' case. He
23 should not be able to testify about what the DCA
24 would or wouldn't do under the circumstances.

25 MR. MCGUCKIN: I think he can give --

1 DCA handles planning issues. I think he can give an
2 opinion as to what the DCA would be, just like an
3 engineer would give an opinion as to what the DEP
4 might do.

5 MR. MICHELINI: He's going to give an
6 opinion as to what somebody else would think. I was
7 asking him his opinion of what he thought. And
8 you're going to allow --

9 MR. WINWARD: I think there's a
10 difference, though. That was speculation.

11 MR. MICHELINI: Excuse me. Let me
12 finish, Mr. Winward. Yes, that would be
13 speculation.

14 MR. WINWARD: I said that would be
15 speculation, asking him to speculate on what
16 somebody else is thinking, where this is a question
17 regarding interpretation of a factual document.

18 MR. MICHELINI: Thank you.

19 MR. WISER: Have you ever had any
20 situations where a plan endorsement application was
21 refused or kicked back for further information
22 because a certain neighborhood wasn't appropriately
23 addressed?

24 MR. SLACHETKA: And let me make sure
25 that I understand the question, at least the initial

1 question. You're asking me what would be
2 anticipated in the context of the plan endorsement
3 process that Berkeley Township or any municipality
4 would go through? Is that what you're trying to
5 ask?

6 MR. WISER: Is it correct to say that
7 plan endorsement, generally, is a rigorous process
8 whereby a lot of information is put together and
9 submitted to the State for state approval?

10 MR. SLACHETKA: Yes. And, actually,
11 that, it is a very, very comprehensive process,
12 engaging a number of state agencies, including the
13 Department of Community Affairs and, certainly, DEP.
14 I've been through the -- participated in the State
15 Plan Endorsement process three times, including
16 Berkeley Township's plan endorsement. And I can
17 tell you, as a professional working in that process,
18 it is a very thorough and comprehensive review of
19 the municipality's planning documents and
20 ordinances. So, if there was, in fact, any
21 deficiency --

22 MR. MICHELINI: I'm going to object
23 to this, because now he's going to speculate that if
24 there was a deficiency they would have told him,
25 which is going to the mind of what they think, that

1 is the DCA or the DEP, you know, whatever agency
2 he's going to. So, I think you've already ruled on
3 that.

4 MR. WINWARD: Okay. Please proceed.

5 MR. WISER: Okay. Did you prepare
6 the Master Plan's 2020 vision statement?

7 MR. SLACHETKA: No, I did not. The
8 2020 vision statement? The one that was developed
9 in, I think, 2003?

10 MR. WISER: I suppose. I don't have
11 that in front of me. You speak to it on --

12 MR. SLACHETKA: Yes.

13 MR. WISER: -- yeah, on page 22 of
14 the report, 2020 vision statement and the 2003
15 Berkeley Township Master Plan reexamination.

16 MR. SLACHETKA: Yeah. We did not
17 participate in the preparation of the 2020 vision
18 statement. That was -- we came onboard as a planner
19 after they -- after that had been prepared.

20 MR. WISER: Okay. Did you -- you
21 have -- have you, as part of your follow-up planning
22 initiatives, taken a look at the vision statement
23 and revised it at all?

24 MR. SLACHETKA: We have not revised
25 it. We prepared master plan reexamination reports

1 reviewing the goals and objectives of the master
2 plan, but we've not specifically revised the 2020
3 vision statement.

4 MR. WISER: Okay. You say here that
5 the 2020 vision statement focused on a future
6 Berkeley where future growth would be directed?

7 MR. SLACHETKA: That is correct.

8 MR. WISER: And we have heard
9 testimony that growth is very, very limited in
10 South Seaside Park because it's generally a
11 built-out community?

12 MR. SLACHETKA: Yes. That is
13 correct. It's a generally developed community.

14 MR. WISER: So, if there's no room to
15 grow in South Seaside Park, would it naturally be
16 not included in a vision statement that is speaking
17 towards growth?

18 MR. SLACHETKA: And I think, as I
19 mentioned, because the focus was on the balancing
20 protection of the -- balancing of the development
21 activity with the protection of environmental
22 resources, there was naturally a focus on areas
23 where that balance would be achieved. And,
24 obviously, the mainland offered those opportunities.
25 There wasn't -- it wasn't that any one particular

1 area was ignored, but that there was a recognition
2 of what was developed already, as well as what had
3 the ability to provide for new development. And at
4 the same time, through that development pattern,
5 also protect the natural resources of the township.

6 MR. WISER: There was a large
7 conversation or long conversation, multi-layered
8 conversation, about affordable housing. And that
9 there is no affordable housing on the island. Check
10 that. Let me take a step back. That the township's
11 affordable housing plan does not include anything on
12 the island. Was that a conscious decision by the
13 planners at the time?

14 MR. SLACHETKA: Well, like I had
15 indicated or have indicated in all these planning
16 initiatives, and probably what my key theme was,
17 that there's been an evolution and a building of the
18 planning policies of the township over a lengthy
19 period of time. It's a continuum. And the
20 development of housing planning policies has been
21 developed over a long period of time and respond --
22 and those policies also respond to the current
23 regulatory, current legal and statutory framework.
24 So, as I mentioned, and I think one of the things I
25 mentioned was when Mr. Bauman had prepared his

1 report, that that process had not yet completed.
2 And he was evaluating or responding to plans that
3 were in place.

4 The township's current affordable
5 housing plan doesn't make any distinctions, other
6 than from a planning perspective, doesn't call out
7 specific areas for affordable housing or not
8 affordable housing. But where any new multifamily
9 residential development is to occur, there is to be
10 a commensurate set aside for that affordable
11 housing.

12 I should point out as well that the
13 township's prospective need obligation for
14 affordable housing is zero based on the settlement
15 with Fair Share Housing Center. So, as part of that
16 settlement agreement, the township put in place a
17 planning framework that provides for the provision
18 of affordable housing in those areas that are more
19 appropriate and more sustainable for development.
20 It does not exclude South Seaside Park if some
21 development occurred. Whether it's a mixed use
22 development or new multifamily residential
23 development, there would be a requirement for,
24 commensurate requirement, for affordable housing.
25 It's based on a planning analysis and based on a

1 comprehensive plan for affordable housing and not
2 directing affordable housing specifically to or
3 specifically away from any specific part of the
4 township.

5 MR. WISER: Okay. So, you said that
6 if there were multifamily development or mixed use
7 development, affordable housing under the plan could
8 be a component of that?

9 MR. SLACHETKA: That is correct.

10 MR. WISER: When --

11 MR. SLACHETKA: Or actually, it was,
12 and affordable housing is mandated.

13 MR. WISER: Okay. Thank you.

14 The neighborhood plan for
15 South Seaside Park that was just adopted by the
16 planning board and presumably moving forward for
17 ordinance adoption, the plan that T&M first put
18 forward, did it include a multifamily, the
19 possibility for multifamily development?

20 MR. SLACHETKA: Yes, there was some
21 areas that were identified, specifically the
22 existing, you know, townhome areas. And there was a
23 couple of other places in the zone plan for the --
24 for South Seaside Park that both existing and
25 initially proposed zone plan, that provided for

1 multifamily residential development.

2 MR. WISER: And as that plan evolved
3 and then was finally adopted, were those provisions
4 eliminated?

5 MR. SLACHETKA: Yes, to a substantial
6 extent, because of input from the public indicating
7 a desire for a more single-family detached
8 development form within the -- within South Seaside
9 Park, the planning board, in adopting the
10 neighborhood plan, recognized the concerns of the
11 residents or the opinions of the residents and made
12 some changes that, essentially, made the proposed
13 zoning or the land use plan, I should say, for the
14 area, substantially single-family detached
15 development form.

16 MR. WISER: Okay. In the
17 neighborhood plan, you have a number of maps and to
18 one extent or the other -- and let me try to find --
19 they're in the appendices.

20 MR. SLACHETKA: Are you talking about
21 the neighborhood plan or the planning report?

22 MR. WISER: That's a good question.
23 Bear with me a second. Let me see if I can find
24 page one here.

25 This was an appendix to your report.

1 And I'm trying to get the front page of it. Bear
2 with me, please.

3 (Off the record.)

4 MR. WISER: Okay. I'm sorry.
5 There's an appendix to the planner's report.

6 (Off the record.)

7 MR. WISER: Okay. So, apparently,
8 it's in the de-annexation report. It's appendix D,
9 map set. And flipping through --

10 MR. SLACHETKA: Do you have a page
11 number on the bottom?

12 MR. WISER: 344 and thereabouts.
13 Some a little before, some a little after.

14 MR. SLACHETKA: The one I see that's
15 identified as page 344 on the bottom says,
16 neighborhood reference South Seaside Park
17 neighborhood.

18 MR. WISER: Try 351, if you would.
19 (Off the record.)

20 MR. DICKERSON: Are you looking in
21 the neighborhood plan or are you looking in the
22 de-annexation report?

23 MR. WISER: Okay. There's a -- on
24 the bottom, it says, 351, page 351. On the header,
25 it says, appendix, planning report in the matter of

1 petitioned de-annexation of South Seaside Park.
 2 MR. SLACHETKA: That's -- I think
 3 it's a tax map --
 4 MR. WISER: Portion of, yeah.
 5 MR. SLACHETKA: -- that shows, and
 6 there's a legend in the lower left-hand corner that
 7 shows tax parcel on NJDEP recreational and open
 8 space inventory. That's the first item in that
 9 legend.
 10 I was just asking him to confirm I
 11 was looking at the right thing.
 12 MR. WISER: Yes, that is the correct
 13 one. That is the one I'm referencing.
 14 And there are, if you back up to
 15 page 348, there is a map, existing open space and
 16 recreation areas, South Seaside Park. And then the
 17 one before that, which is the tax map you referenced
 18 before on page 350.
 19 The point I'm trying to make, in all
 20 these maps, there are some colored codings that
 21 appear to me to be in the bay, to be actually in the
 22 water.
 23 MR. SLACHETKA: Yeah, that's correct.
 24 MR. WISER: And there, if you look on
 25 the one that is labeled page 351, there is the red

1 hash marks and then the blue coding for the tax maps
 2 or for the, I'm sorry, the tax parcels in the bay?
 3 MR. SLACHETKA: Right.
 4 MR. WISER: Okay. The tax -- the
 5 blue is riparian grant?
 6 MR. SLACHETKA: It's that portion of
 7 that specific tax parcel that's riparian. That's
 8 pursuant to a riparian grant, that's correct.
 9 MR. WISER: So, there was a grant
 10 issued?
 11 MR. SLACHETKA: Yes.
 12 MR. WISER: Do we know -- I can't
 13 read the map at this scale. Do we know who it was
 14 issued to?
 15 MR. SLACHETKA: That's a good
 16 question. I can't read -- actually, I can't read
 17 the -- you're talking -- you're referring to the
 18 little table in the upper left-hand side?
 19 MR. WISER: Or some of the notations
 20 in the tax lots themselves. I can't read it, the
 21 scale I received this in.
 22 MR. SLACHETKA: I can start reading
 23 it, but maybe because I got new prescriptions
 24 recently. They're very, very small.
 25 MR. WISER: Do the hatched areas --

1 the red hatching, it says, area in question.
 2 MR. SLACHETKA: Uh-hum.
 3 MR. WISER: What is that supposed to
 4 mean, just for clarity?
 5 MR. SLACHETKA: That's -- well,
 6 that's up -- well, upland area or area that's not in
 7 the riparian grant. And the area in question I
 8 think was in -- was referencing the issue of whether
 9 or not that that was available recreation and open
 10 space properties or there was -- I think the
 11 specific question was in relationship to the bay
 12 beach discussion that has taken place over several
 13 meetings.
 14 MR. WISER: And what was the answer
 15 to that question that you just spoke to?
 16 MR. SLACHETKA: Well, I think, and
 17 it's specified and discussed in the report in terms
 18 of the township really doesn't have control of
 19 the -- of that area for the purpose of open space
 20 and recreation. And that to the extent that it does
 21 have any control, it's an easement that's granted,
 22 which is identified as easement to Berkeley Township
 23 for road maintenance purposes and to be able to
 24 sustain the viability of the roadway at that
 25 location, Bayview Avenue.

1 MR. WISER: Okay. Leaving the report
 2 for a second. How long have you been the planner
 3 for the township?
 4 MR. SLACHETKA: I'm trying to think
 5 whether it was 2011 or 2012. I believe it was, we
 6 started in 2011. I'd have to double check. But it
 7 was at that period of time.
 8 MR. WISER: That time period?
 9 MR. SLACHETKA: That time period. It
 10 might have been 2010. But I think, I think it was
 11 early as 2011. Because we started just about at the
 12 time, you mentioned plan endorsement, just the time
 13 that the plan endorsement process was concluding.
 14 And the plan endorsement was granted in 2012. So, I
 15 believe we started either in 2011 or the beginning
 16 of 2012.
 17 MR. WISER: Okay. Mr. Bauman
 18 testified that the zoning in Seaside Park and
 19 South Seaside Park are not consistent. And that the
 20 implementation of the then proposed island zoning
 21 would not improve that consistency. He then goes on
 22 to state, inconsistent zoning is an area with common
 23 characteristics and shared infrastructure is a
 24 blueprint for insensitive development, reduced
 25 property values, degraded vernacular character and a

1 decreased quality of life.

2 In the time that you've been a
3 planner here, has anyone made an issue about
4 inconsistent zoning between South Seaside Park and
5 Seaside Park and that it was a problem?

6 MR. SLACHETKA: Only the -- as I
7 identified in the report, only to the extent that it
8 was actually already identified in master plan
9 documents that had been prepared prior to our
10 engagement. And as I indicated just before about
11 the housing plans, Mr. Bauman's report was kind
12 of -- his opinion, I should say, was rendered at a
13 particular point in time. And any issues with
14 reference to inconsistency or any issues with
15 regards to addressing the adequate public input into
16 the process and making sure that we developed a plan
17 for South Seaside Park in a comprehensive way was
18 addressed in the planning process that took place.
19 Certainly, since I've been onboard here as working
20 with the township on their planning process through
21 the various post Sandy planning activities,
22 development of reexamination reports and then the
23 neighborhood plan for South Seaside Park.

24 The simple answer to you is it -- the
25 inconsistent -- any inconsistencies that might have

1 been identified have been addressed or were
2 addressed through the comprehensive planning process
3 that's taken place over the course of the last
4 several years.

5 MR. WISER: Okay. Mr. Bauman stated
6 that, something to the effect of, he did not see any
7 special zones in South Seaside Park that would be
8 unique or special if they were lost through
9 de-annexation. And said, there's no great -- there
10 are not so unique or special because they all exist
11 on the mainland in much greater quantity. I think
12 speaking to the zones.

13 Do you have an opinion as to whether
14 or not zoning and planning -- from a zoning and
15 planning type perspective, will Berkeley lose any
16 special uses that exist if de-annexation is granted?

17 MR. SLACHETKA: Yeah. And I think
18 that the discussion of looking at zones lost or
19 zones gained or were modified, I think is not -- not
20 the issue in terms of the identification of what
21 makes South Seaside Park unique and special, and a
22 very, very unique place, a neighborhood, as I
23 presented in the context of my report. I don't
24 think that really speaks to the point. You can
25 always create and recreate zones and you can modify

1 zones. I think it's really more the place, you
2 know, both geographically and as it's developed.
3 And, as we've talked about, as an important and
4 unique neighborhood. So, I don't think the zone
5 differences -- and you see that the zones can be
6 modified and amended over a period of time to either
7 recognize existing uses or plan for new development,
8 new approaches. And that's always going to be
9 evolving. And I don't think it's a question of
10 losing zones. It's a question of losing places.

11 MR. WISER: In that sense, Mr. Bauman
12 testified that South Seaside Park is a remote part
13 of Berkeley Township that lacks planning and zone
14 regulation that address its special community
15 character.

16 Can you comment about whether or not
17 South Seaside Park has a special community
18 character? And in that sense, would you comment as
19 to whether you think it's a unique part of the
20 township?

21 MR. SLACHETKA: Well, yes, I think
22 I've testified pretty extensively and presented
23 pretty substantially in the report about the unique
24 character of South Seaside Park and the importance
25 that that plays within the, you know, complex of

1 neighborhoods that basically defines
2 Berkeley Township. You know, to the extent that
3 Mr. Bauman's comments with regards to zoning and
4 representing the character of South Seaside Park,
5 I'm not going to comment on his opinion per se,
6 again, because I don't necessarily agree with it.
7 But I think more specifically, as I had been
8 indicating that, and spelled out in the report
9 through the ongoing planning process that's taken
10 place over the last number of years, and that
11 planning process really having its origin in
12 planning activity and planning work that took place
13 here in the township well before we, T&M, became the
14 township planners, have recognized and identified
15 and addressed the unique character, the neighborhood
16 character of the South Seaside Park neighborhood and
17 with the public input that we received.

18 (Off the record.)

19 MR. SLACHETKA: But I think that that
20 is -- and I would -- now I lost my train of thought.
21 But I think that the idea of identifying and
22 recognizing the unique characteristics of South
23 Seaside Park --

24 (Off the record.)

25 MR. SLACHETKA: That the

1 South Seaside Park, the zoning and the planning
2 approaches in the neighborhood plan recognized the
3 unique character of South Seaside Park. And with
4 the substantial public input that took place as part
5 of the planning process, we strove to listen to that
6 and to further recognize the character of that
7 community.

8 MR. MICHELINI: Just, it's not really
9 a meant to be a criticism of Mr. Wisser, but the
10 questions are just having Mr. Slachetka reiterate
11 what he's already said in his report. And he said
12 several times, as I said in my report. So, maybe
13 the questions could be more directed to something
14 that is -- that he didn't say in his report or is a
15 clarification, so we can just keep it moving.

16 Because I really don't think it's appropriate to sit
17 here and just have him reiterate what was in his
18 report, because we heard four hours of testimony.

19 MR. WISER: Well, how about if I ask
20 my question and if it's already in the report, you
21 can just tell me it's in the report?

22 MR. SLACHETKA: Okay. Fair enough.

23 MR. WISER: Mr. Bauman, there was
24 extensive discussion with Mr. Bauman where he
25 suggested that de-annexation will not significantly

1 impact any cultural sites or environmental resources
2 for the township. He was asked if there wasn't a
3 loss to the township, if the historic sites such as
4 White Sands Beach, Midway Beach, move from Berkeley
5 to Seaside Park. Mr. Bauman then downplayed the
6 significance of Midway Beach, stating that it was
7 not on the historic register and only designated to
8 be eligible for the register. And there was some
9 back and forth there.

10 In your opinion, would it be a loss
11 to the township if the sites such as the White Sands
12 Beach and Midway Beach move from Berkeley to
13 Seaside Park?

14 MR. MICHELINI: Before he answers
15 that, I'm just going to object to the nature of the
16 question. With all due respect, I think it's
17 improper for you to characterize Mr. Bauman's
18 testimony and say, well, he downplayed this or he
19 downplayed that. Just simply ask the question.

20 MR. WISER: Well, I'm not -- I'm
21 quoting him.

22 MR. MICHELINI: He said, I am
23 downplaying?

24 MR. WISER: No, but you want me to
25 actually --

1 MR. MICHELINI: No, no.

2 MR. WISER: Excuse me. I have
3 exactly what he said here. I can spend the time
4 going through it. And then the board can decide
5 whether it's downplaying or not.

6 MR. MICHELINI: Well, I think you
7 simply could ask the question at the end, rather
8 than set it up with a lot of commentary. That's
9 kind of improper in a cross-examination context to
10 set it up with your own characterizations of how he
11 said things, which is what you did.

12 MR. WISER: Okay. Fine. How --

13 MR. MICHELINI: I think it's better
14 to simply ask the question.

15 MR. WISER: How about this:
16 Mr. Slachetka, I think you and the board will
17 remember Mr. Bauman's testimony and how he
18 characterized White Sands Beach and Midway Beach and
19 their significance to the township. Do you think it
20 would be lost to the township if the sites such as
21 White Sands Beach and Midway Beach moved from
22 Berkeley to Seaside Park?

23 MR. SLACHETKA: Yes, I do.

24 MR. WISER: Can you expand on that
25 just a little bit?

1 MR. MICHELINI: Well, is it covered
2 in his report first? And I believe it is. I think
3 it's already covered in his report and his
4 testimony. So, I just don't want to go back over
5 things that we've done before.

6 MR. WINWARD: I think he's just
7 asking for some clarification on that.

8 MR. SLACHETKA: And maybe I should,
9 Mr. Wisser, specifically, because I think
10 Mr. Michelini is correct in that regard, that I did
11 discuss it. But if there's something specific that
12 you want me to address in that context of why --

13 MR. WISER: Well --

14 MR. SLACHETKA: You know, I apologize
15 because I'm not -- I'm feeling a little under the
16 weather so my voice is a little lower than -- today
17 than it has been. So, I apologize. I'll try to
18 stay closer to the microphone.

19 MR. WISER: Mr. Bauman went on at
20 length as to why he thought that White Sands Beach
21 would not be -- the loss of White Sands Beach would
22 not be significant for the township. And
23 Midway Beach, that loss would not be significant for
24 the township. You said you think it would.

25 MR. SLACHETKA: Yes.

1 MR. WISER: If it's in your report,
2 is it -- can you point to it and tell us where or
3 would it just simply be easier to answer the
4 question?

5 MR. SLACHETKA: There is a section in
6 the report that focuses on the recreational value of
7 those facilities and it's -- the fact that those
8 facilities are, essentially, unique in the township.
9 So, as a -- I think the general thematic approach
10 that I took is that there are elements here in terms
11 of the loss of the South Seaside Park that are
12 irreplaceable. We talked a little bit about zoning.
13 We talked about affordable housing. But I think you
14 can't recreate -- you can't recreate those unique
15 facilities and those unique places elsewhere in the
16 township. There's not -- it's not possible. You
17 would not be able to. There would be a completely
18 irreplaceable loss for the township. And I think
19 maybe that's the connecting theme in my discussions
20 with regards to the impact on the township.

21 MR. WISER: Okay. Mr. Bauman spoke
22 extensively about the fact that the recommendations
23 of the 2008 master plan and the -- were not
24 effectuated. I think specifically the 2008 master
25 plan, and correct me if I'm wrong, calls for the

1 five island zones for South Seaside Park. Do you
2 know why those recommendations were never
3 implemented?

4 MR. SLACHETKA: Well, I think that,
5 like any planning process, things just take some
6 time to be able to fully, fully implement. And
7 that's the reason why the planning process is an
8 ongoing planning process. And the township didn't
9 ark its, you know, or tack, I should say, its
10 planning approaches from a comprehensive, you know,
11 planning perspective because of de-annexation or any
12 activity. They did what they and this board did
13 what it's supposed to do and, you know, consistently
14 reexamined its goals and objectives and reexamined
15 its land use policies and reacted to events such as
16 Superstorm Sandy that significantly impacted its
17 land use approaches. It also recognized its
18 regional role and regional context in terms of the
19 balancing of land use and the ecological value of
20 the Barnegat Bay watershed.

21 So, it's -- the planning process is
22 ongoing. And the results I think speak for
23 themselves in terms of what was done and ultimately
24 how these recommendations that came out of the 2008
25 master plan initially were reaffirmed. And then

1 further defined by stating in the subsequent
2 reexamination report that there needed to be and
3 needs to be, in developing a specific land use
4 policy for the South Seaside Park area, the adequate
5 community input. That ultimately was effectuated
6 because of the fact and, unfortunately, for the
7 township, the township was affected by Superstorm
8 Sandy, but, as a consequence of that, there was a
9 significant amount of funding that was made
10 available through the post Sandy Planning Assistance
11 Grant Program to fund reexamination, to fund the
12 neighborhood plans, not only for South Seaside Park
13 but also for the Bayshore neighborhoods and the
14 neighborhood plan that was also prepared, all
15 through grant money.

16 So, the township, you know, benefited
17 because those grant monies were available. And they
18 were able to do the planning and undertake the
19 planning process, extensive planning process, that
20 was necessary to finally, you know, take a step
21 forward and move forward in the implementation of
22 those recommendations. I think we have a plan in
23 place that recognizes the unique characteristics of
24 the South Seaside Park neighborhood.

25 MR. MICHELINI: I'm just going to

1 register a continuing objection because that's been
2 testified to ad nauseam in the past. And I don't
3 think we need to go over it and ask questions that
4 essentially elicit direct testimony that was
5 previously given.

6 MR. WINWARD: Okay. Duly noted.

7 MR. WISER: Relating back to plan
8 endorsement. First a very quick question. Is
9 South Seaside Park included in the scope of
10 documents that received plan endorsement or -- let
11 me -- is South Seaside Park indeed included or not
12 included in the endorsed plan?

13 MR. SLACHETKA: No, it is. I mean,
14 because it's part of the township's plan, so,
15 it's -- all the township plans, master plans and
16 ordinances were evaluated. And that includes --
17 including South Seaside Park.

18 MR. WISER: After -- there was --
19 Mr. Bauman made a statement that the township has no
20 vision for South Seaside Park going forward. They
21 see it as having no growth capacity. The planning
22 goals of the township are preoccupied for
23 development on the eastern mainland. And
24 South Seaside Park is not mentioned in their 2020
25 vision plan or the fair share plan for affordable

1 housing.

2 After all the work that you have
3 done, could you comment on the statement that, or on
4 Mr. Bauman's opinion, that the township has no
5 vision for South Seaside Park?

6 MR. MICHELINI: I'm going to object,
7 because he addressed that for quite a while in his
8 direct testimony about whether or not South Seaside
9 Park was neglected by the plan and the zoning
10 ordinance and all that. I mean, he probably spoke
11 for 20 minutes or a half hour on that already. So,
12 I'm going to object to that continuing line of
13 questioning.

14 MR. WINWARD: Okay. We note that for
15 the record.

16 MR. SLACHETKA: Do you want me to
17 answer that?

18 No, it's my opinion that
19 South Seaside Park has been recognized and continues
20 to be recognized in the comprehensive planning
21 documents of the community.

22 MR. WISER: There was extensive
23 discussion regarding demographics and Mr. Bauman's
24 opinion, the people on the barrier island and the
25 people on the mainland are mostly the same. They

1 both share very similar characteristics with regards
2 to age, race, occupation and the composition of
3 their household income -- their households and
4 income. And then there was a discussion on
5 homogeneity of the two populations.

6 So, my question is, would you
7 consider those two populations to be homogenous or
8 to be, essentially, the same, which is another word
9 for homogenous.

10 MR. MICHELINI: Again, asked and
11 answered more than once.

12 MR. WINWARD: If you can answer.

13 MR. SLACHETKA: Yeah. And I -- I'll
14 play the report card on this one. And that is, yes,
15 in our report, in evaluating the demographics, we
16 point out the distinctions between the populations
17 in South Seaside Park and the mainland.

18 MR. WISER: Thank you. I have no
19 further questions.

20 MR. WINWARD: We thank you for your
21 participation.

22 FURTHER EXAMINATION BY MR. MICHELINI:

23 Q Just have a couple follow-ups.

24 You and Mr. Bauman disagreed about a number
25 of things, correct?

1 A I don't know if we disagreed. I
2 wouldn't characterize it disagreement.

3 Q Okay. So, your opinions are the
4 same?

5 A What --

6 Q I mean, you either disagree --

7 A I'm not going to -- I'm not going
8 to -- actually, I won't go down that route. What
9 opinions, what specific opinions are you talking
10 about?

11 Q Well, generally speaking, some of
12 your opinions are different than his opinions,
13 correct, in this matter? Would you agree with that
14 or not?

15 A No, I don't think I would agree with
16 it. I don't think we were voicing contrary opinions
17 on things. He was asking me questions and I was
18 providing my input.

19 Q So, you find everything in
20 Mr. Bauman's opinion to be accurate and true,
21 correct?

22 MR. MCGUCKIN: Let's be clear here.
23 Mr. Slachetka, you thought he just asked about
24 Mr. Wisser?

25 MR. SLACHETKA: Oh, yeah. I'm so

1 sorry. You're absolutely right, Greg. And I
2 apologize. Here, I'm thinking you're talking about
3 Mr. Wisser.

4 MR. MICHELINI: You can tell me if
5 you disagree with him, too. I'm okay with that.

6 MR. SLACHETKA: I was wondering where
7 you were going with that line of questioning. But,
8 my apologies. I totally misunderstood.

9 MR. MICHELINI: No problem.

10 MR. SLACHETKA: Thanks, Greg.

11 Q So, you and Mr. Bauman disagree on a
12 number of things, correct?

13 A Yes. I think it was -- I think it
14 was -- again, to talk about my report and testimony,
15 I think I made it clear about the items that I
16 disagreed with Mr. Bauman.

17 Q And some things you probably agree
18 on, correct?

19 A I don't know if there are. I mean,
20 I -- if you want me to look through the report
21 again.

22 Q No, I don't want you to look through
23 the report.

24 MR. WINWARD: Actually, I think you
25 should read it verbatim.

1 A And I might find other things I might
2 disagree with.
3 MR. MICHELINI: That was already
4 done.
5 Q And it's not uncommon in a
6 professional context that experts have different
7 opinions; isn't that true?
8 A Yes, that's absolutely true.
9 Q So, you're not surprised that
10 Mr. Bauman disagrees with you in this context,
11 correct?
12 A And I think he should not be
13 surprised that I disagree with him.
14 Q Correct.
15 Affordable housing, you talked a little bit
16 about that. As the ordinance changes to a more
17 single-family favorable ordinance, or as it has
18 changed, there's going to be less opportunity for
19 affordable housing because there'll be less
20 multifamily housing in South Seaside Park, correct?
21 A Well, yeah, but, I mean, that's
22 because of the direction and interest of the
23 community in that area. If, in fact, there is
24 any -- for example, if a property owner was able to
25 get a variance for a multifamily residential form,

1 there would be a commensurate requirement for
2 affordable housing.
3 Q But that would be a use variance?
4 A Yeah. And there are --
5 Q Excuse me. That would be a use
6 variance?
7 A That would be a use variance.
8 Q And use variances are more difficult
9 to obtain than a regular variance, correct?
10 A There's a higher standard. When you
11 say regular, you're talking about a bulk variance?
12 Q A bulk variance, any other kind of
13 variance?
14 A Yeah, there's a higher standard of
15 proof for D variances, of course.
16 Q And as the goal of zoning, one of the
17 main goals is to bring properties into conformity.
18 So, over time, there's going to be less and less
19 multifamily housing because of the single-family
20 housing use that's been approved?
21 A Yeah, there's -- there are some small
22 sections of the South Seaside Park neighborhood that
23 I do still believe provide for multifamily
24 development.
25 Q But most of the South Seaside Park

1 neighborhood is going to become more and more
2 single-family? And you testified to that
3 previously?
4 A Yeah, yeah. That's right. I'm not
5 disagreeing with that.
6 Q Okay. So, the opportunity for
7 affordable housing there will continue to diminish,
8 correct?
9 A Well, again, I mean, it is like -- it
10 would be like any other single-family residential
11 neighborhood within the township, that there's
12 probably going to be less opportunities for
13 affordable housing within those areas.
14 Q And there's no obligation for
15 affordable housing if you're simply building a
16 house, a single-family house, correct?
17 A No, but you do have a requirement for
18 making a payment in lieu -- not payment, a mandatory
19 development fee payment for, towards the township's
20 trust, affordable housing trust fund.
21 Q But there's no obligation to provide
22 an affordable housing unit in South Seaside Park if
23 somebody's simply putting up a single-family home in
24 accordance with the new zoning, correct?
25 A Yeah, that's correct.

1 Q All right. You talked about the plan
2 endorsement. What was the date of the plan
3 endorsement?
4 A I believe the plan endorsement was
5 granted in 2012. And I don't remember the exact
6 month --
7 Q What are the -- and the DCA looks at
8 that and other governmental agencies?
9 A Yeah, every -- it would be every
10 state agency that has a relationship to land use,
11 including Department of Transportation, Department
12 of Environmental Protection, Department of Community
13 Affairs. I believe the Department of Agriculture
14 also has a role in the process as well.
15 Q And as part of that plan endorsement
16 process, are those governmental agencies furnished
17 with a copy of the zoning ordinance?
18 A Yes.
19 Q Okay. And the zoning ordinance back
20 in 2012, provided for, among other things, that you
21 could build a hospital in South Seaside Park or you
22 could have mining operations; isn't that correct?
23 A Yes, that is correct.
24 Q Did any of those governmental
25 organizations do the vigorous review and point that

1 out?
 2 A I think that, to the extent that the
 3 agencies review the land use policies and the plans,
 4 they're looking at it from the --
 5 Q I'm not asking you how they're
 6 looking at it. All I'm saying is --
 7 A Well, I'm just --
 8 Q -- does any of them point it out?
 9 A Actually, I was answering. I was
 10 actually answering your question.
 11 Q Please, it's very simple. Did they
 12 point it out to you, that South Seaside Park, back
 13 in 2012, had zones that allowed hospitals and
 14 mining? Did they point it out to you?
 15 A They didn't get to that level of
 16 analysis.
 17 Q They don't get -- they're not -- it's
 18 not that detailed?
 19 A No.
 20 Q Thank you.
 21 A No.
 22 Q Did you discuss your testimony
 23 tonight that you gave with Mr. Wisner ahead of time?
 24 A No, I did not.
 25 Q You talked about the 2020 vision

1 statement and how that would provide additional
 2 growth, primarily for the mainland, correct?
 3 A That is correct.
 4 Q And that eventually will provide an
 5 additional tax base and ratables, correct?
 6 A Yes, I think I testified to that
 7 already. Yes.
 8 Q And do you have any idea what kind of
 9 ratables will be provided if that vision statement
 10 is fulfilled?
 11 A I've not done an analysis to quantify
 12 the specific amount of tax ratables, no.
 13 Q And that -- does that involve
 14 commercial tax ratables?
 15 A Yes.
 16 Q Is that a significant component of
 17 the 2020 vision statement?
 18 A What do you mean by significant? I'm
 19 not sure I understand.
 20 Q How do you define significant?
 21 Meaningful, is it a meaningful component?
 22 A Well, I mean, the 2020 vision
 23 statement talks about a variety of different uses,
 24 and -- in addition to commercial, and talks about
 25 residential uses. So, the commercial uses are an

1 important component of it.
 2 Q Sure. So, does the 2020 vision
 3 statement anticipate that there will be an increase
 4 in ratables for commercial properties?
 5 A I can look specifically back at the
 6 2020 vision statement. But I, again, I think the
 7 focus was to provide for adequate growth and ratable
 8 base with the commensurate protection, and, again,
 9 I've said this a number of times, with a
 10 commensurate protection of natural resources within
 11 the township.
 12 Q Okay. And what is the anticipated
 13 rate of growth for the township in terms of
 14 commercial development, according to the 2020 vision
 15 statement?
 16 A Yeah, I haven't -- I haven't looked
 17 at that. I don't know.
 18 Q So, you don't know?
 19 A Not off the top of my head, I don't.
 20 Q Is it in there?
 21 A I don't know. I'd have to -- I don't
 22 know if they predicted the specific amount of
 23 commercial growth. I'd have to look back to the
 24 actual text of the 2020 --
 25 Q How about residential growth, is it

1 predicted that there'll be residential growth?
 2 A I believe it is, but I don't know the
 3 exact amount that they predicted in that report.
 4 Q How much land is on mainland in
 5 Berkeley Township that can be developed for either
 6 residential or commercial growth?
 7 A I don't know that off the top of my
 8 head.
 9 Q Is it bigger than South Seaside
 10 Park?
 11 A I would anticipate it is, yes.
 12 Q Do you know is it --
 13 A Don't know.
 14 Q Do you know if it's more than a
 15 square mile?
 16 A Don't know. I'd have to look. I
 17 don't want speak off the top of my head.
 18 Q You don't know. But you do know that
 19 it's anticipated, according to the 2020 vision
 20 statement, that there will be future growth in
 21 Berkeley Township that will result in both
 22 commercial and residential ratables, correct?
 23 A That's correct, yes.
 24 Q And that's primarily on the mainland,
 25 correct?

1 A Primarily, yes.
 2 Q The map that you looked at, you
 3 talked about the blue area on the map being riparian
 4 area. Did you analyze the riparian grants in any
 5 way?
 6 A No, I did not. I think you asked me
 7 that question already.
 8 Q Did you read any descriptions of
 9 riparian grants?
 10 A And you asked me that question
 11 already.
 12 Q No, I didn't ask you that specific
 13 one.
 14 Did you read any description of riparian
 15 grants?
 16 A No, I did not.
 17 Q Okay. And the red crosshatched area
 18 that you referred to, I believe you said that was
 19 within the easement?
 20 A No. Actually, in looking at the map,
 21 it's not within the easement area, but I think it
 22 was -- the area in question was with regards to what
 23 was the area that potentially could be considered
 24 part of a township bay beach. And I think we
 25 indicated --

1 Q All right. So, the red crosshatched
 2 area is an area that is west of --
 3 A The easement --
 4 Q -- Bayview Boulevard, correct?
 5 A West of Bayview Boulevard, that's
 6 correct.
 7 Q And it's not an easement?
 8 A And that portion is not an easement,
 9 but it's not -- it's not owned by the township. The
 10 township doesn't have any authority --
 11 Q How do you know --
 12 A -- over that area.
 13 Q How do you know it's not owned by the
 14 township?
 15 A I believe, if you take a look at
 16 these are part of these, those tax parcels. And I
 17 know that it's difficult to read that table, but --
 18 Q Well, aside from the riparian grants,
 19 there's a significant amount of crosshatched area
 20 that is not impacted by riparian grants, correct?
 21 A That is correct, yes.
 22 Q All right. And that area, how do you
 23 know it's not owned by the township?
 24 A If you'd just give me a second. I
 25 think it's described in the report.

1 Q Well, let me ask you: Did you look
 2 at any deeds for that area?
 3 A I think you asked me that before.
 4 (Off the record.)
 5 A On page 19 of the report, it
 6 discusses the specific map in detail. And if you
 7 want me to, I can read it. A careful examination of
 8 the area in question -- when I say area in question,
 9 that's the crosshatched area -- a careful
 10 examination of the area in question has revealed
 11 that it is neither listed in the recreational and
 12 open space inventory of the New Jersey Department of
 13 Environmental Protection, nor identified in the
 14 township's master plan documents as a recreation or
 15 open space area. Thus, the area in question is not
 16 a recognized municipal beach or any other type of
 17 recreation or open space area.
 18 Additionally, New Jersey's MOD-IV property
 19 tax assessment database indicates that the area in
 20 question -- again, this is that crosshatched area --
 21 is comprised of privately-owned riparian grants,
 22 which are tideland areas that are deeded to a buyer
 23 by the State of New Jersey, and tideland areas of
 24 the Barnegat Bay that are not located within a
 25 riparian grant and, as such, are claimed by the

1 State of New Jersey. Any remaining areas comprised
 2 of the Bayview Avenue right-of-way, which is
 3 reserved for access and utilities. Thus,
 4 Berkeley Township has no claim or control over the
 5 area in question for use as a beach or recreation
 6 area. As a result, and in the absence of riparian
 7 grant to the township, it has no obligation or right
 8 to maintain the area in question as a municipal
 9 recreation facility. Based on the foregoing, this
 10 area is better defined as a natural shoreline to the
 11 Barnegat Bay, within the Bayview Avenue
 12 right-of-way.
 13 To answer your question, Mr. Michelini, I did
 14 not review the deeds for those specific properties.
 15 Q Did you get a tidelands map?
 16 A No, I did not.
 17 Q All right. So, there's no way to
 18 know exactly whether or not the crosshatched areas
 19 are, in fact, tidelands area, that's claimed by the
 20 State of New Jersey?
 21 A Yeah. And if you would like, I can
 22 probably -- I think we have that information in the
 23 office and I can probably provide that.
 24 Q So if it's not part of the tidelands
 25 area and it's not part of the blue riparian grant --

1 A Well, I think --
 2 Q Excuse me. Let me finish my
 3 question.
 4 A Sure.
 5 Q If it's not part of the blue riparian
 6 grant on your map and it's not part of the tidelands
 7 claim area according to a tidelands map, which you
 8 admit that you haven't looked at, then it belongs to
 9 some private entity. Could be the township or a
 10 public entity, such as the township?
 11 A And I believe, it's my understanding
 12 that it's -- that those crosshatched areas are not
 13 in control by the township, whether or not -- I'm
 14 not sure what the actual ownership disposition of it
 15 is. But it doesn't really matter. Because the
 16 township doesn't have control over those properties
 17 at all.
 18 Q But you haven't done, as you've
 19 indicated, either a tidelands search or a title
 20 search to know that, and you're not a title expert,
 21 so you cannot give an opinion on ownership; isn't
 22 that correct, a definitive opinion?
 23 A That is correct. No, it can't be --
 24 that is correct.
 25 Q And just with regard to the beach and

1 it being unique, White Sands Beach, if every
 2 mainland community had -- that had a barrier portion
 3 that was on the beach, would it be your opinion that
 4 the barrier portion on the beach would always be
 5 unique? If there's a mainland community and there's
 6 a barrier portion on the beach, as we have here,
 7 would it be your opinion that the beach area would
 8 always be unique because it's oceanfront beach?
 9 A Well, to the extent that if it -- if,
 10 in fact, the municipality had a barrier island
 11 portion, you have a neighborhood, you have a
 12 developed area, you have the beach, you know, if
 13 those unique circumstances were replicated
 14 elsewhere, yeah, I guess that would be the case.
 15 Q So, in every situation like that, you
 16 would be opposed to de-annexation; isn't that
 17 correct?
 18 A I would have to take every case on
 19 its own merits.
 20 Q And in this case, even if you lose
 21 three blocks of beach, you still have nine and a
 22 half miles or so of oceanfront beach in the state
 23 park, isn't that correct?
 24 A I -- we --
 25 Q That belongs to Berkeley Township?

1 A We've talked about -- we've talked
 2 about --
 3 Q Is that correct?
 4 MR. MCGUCKIN: Let him answer, Joe.
 5 A We've talked about that before. And,
 6 again, it's, as I indicated previously, that that is
 7 not under the control of the township.
 8 Q I didn't ask you if it was under the
 9 control. I asked you if it's still in Berkeley
 10 Township?
 11 A Yes, it is still in the township.
 12 MR. MICHELINI: Thank you. No
 13 further questions.
 14 MR. WINWARD: Seeing there is nobody
 15 else coming forward for testimony, I believe that
 16 concludes our hearing for this tonight.
 17 So, with that, we need a motion for
 18 adjournment.
 19 MR. CALLAHAN: So moved.
 20 MR. WINWARD: All in favor.
 21 ALL: Aye.
 22 (Meeting adjourned.)
 23
 24
 25

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 2 C E R T I F I C A T E
 3
 4 I, LINDA SULLIVAN-HILL, a Notary
 5 Public and Certified Court Reporter of the State of
 6 New Jersey, do hereby certify that the foregoing is
 7 a true and accurate transcript of the proceedings as
 8 taken stenographically by and before me at the time,
 9 place and on the date hereinbefore set forth.
 10
 11
 12
 13 ~~Notary Public of the State of New Jersey~~
 14 My Commission expires January 26, 2021
 15
 16 Dated: February 14, 2018
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MR. CALLAHAN: [1] 75/18
MR. DICKERSON: [1] 40/19
MR. MCGUCKIN: [28] 7/20 8/2
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MR. MICHELINI: [50] 4/3
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MR. SLACHETKA: [50] 30/8
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MR. WINWARD: [17] 3/12
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MR. WISER: [56] 29/5 29/8
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