

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 -----
9 Pinewald Keswick Road
10 Bayville, New Jersey
11 Thursday, May 5, 2016
12 6:30 p.m.
13
14 B E F O R E:
15 Anthony DePaola, Chairman
16 Brian Gingrich, Member
17 John Bacchione, Councilman
18 Frederick Bell, Member
19 Domenick Lorelli, Member
20 Richard Callahan, Member
21
22
23 -----
24 LINDA SULLIVAN-HILL & ASSOCIATES
25 CERTIFIED COURT REPORTERS
46 SOUTH LAKEVIEW DRIVE
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12 BY: JOSEPH MICHELINI, ESQ.
13 Attorneys for the Petitioners
14
15 ALSO PRESENT:
16 Kelly Hugg, Secretary
17 Stuart B. Wiser, Planner
18 Nick Dickerson, Planner
19 Rodney Haines, CPA
20
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23
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1 MR. DePAOLA: Call of agenda
2 application, consideration of agenda application.
3 South Seaside Park Homeowners and Voters
4 Association, de-annexation petition hearing.
5 Attorney Joseph Michelini, action, public hearing
6 and discussion. Mr. Michelini, you can, please.
7 MR. MICHELINI: Yes. Good evening,
8 Mr. Chairman and members of the Board.
9 MR. DePAOLA: I just wanted to just
10 give you a little groundwork, if I may. You're
11 going to still give the testimony that we left --
12 where we left off, where they left off last time,
13 since I was not here.
14 MR. MICHELINI: Yeah. Last time --
15 actually, I don't think you've been here since the
16 first meeting, if I recall correctly.
17 MR. DePAOLA: Yes. Exactly.
18 MR. MICHELINI: The cross-examination
19 of Mr. Moore was, looked like it was wrapping up,
20 but perhaps the board has more questions. And he is
21 here to answer those questions. And I'm prepared to
22 redirect him.
23 MR. DePAOLA: Okay. And do you have
24 anybody -- do you have anyone else?
25 MR. MICHELINI: Sure. I have other

1 witnesses --
 2 MR. DePAOLA: Oh, you do. Okay.
 3 MR. MICHELINI: -- I may or may not
 4 get through.
 5 MR. DePAOLA: That's fine. That's
 6 fine. As long as they're professionals. And, you
 7 know, witnesses are fine. But if the public, you
 8 know, we're going to hold the public to the five
 9 minutes.
 10 MR. MICHELINI: Well, I have
 11 witnesses, so --
 12 MR. DePAOLA: Yeah.
 13 MR. MICHELINI: -- I would think that
 14 the public would not go until such time as the board
 15 has presented -- as all the witnesses testify in
 16 this matter, including the board's witnesses if they
 17 were to have any. I assume the board is -- from
 18 prior discussions, it would appear that the board is
 19 going to have witnesses, at least one witness. I
 20 would assume, too, from my discussion with
 21 Mr. McGuckin.
 22 And then the public would presumably
 23 go then after those witnesses were heard.
 24 Otherwise, you'd have to allow the public to go
 25 twice. And I don't think you really want to do

1 that.
 2 MR. DePAOLA: I don't. No. But as
 3 you know, then since we started five minutes late,
 4 so we'll go to five after eight. Give you two
 5 hours, okay?
 6 MR. MICHELINI: That's fine. I mean,
 7 you know, if we finish before then, great. If we
 8 don't finish before then --
 9 MR. DePAOLA: Well, just a few.
 10 MR. MICHELINI: -- then we're on --
 11 you know, if we're on a last witness or something,
 12 maybe we can look at it at that time.
 13 MR. DePAOLA: Okay. Go ahead,
 14 Mr. Michelini.
 15 MR. MICHELINI: Mr. Moore, you're
 16 still sworn. So, if you would.
 17 I don't know if the board or its
 18 professionals have any additional questions of Mr.
 19 Moore.
 20 MR. DePAOLA: Does anybody have any
 21 questions?
 22 MR. MCGUCKIN: Yeah, I think, Stu had
 23 left off, I think, with Stuart and --
 24 MR. WISER: I have not many but a
 25 couple questions.

1 MR. MICHELINI: We're going to hold
 2 you to it, Stuart.
 3 MR. DePAOLA: Couple.
 4 KENNETH MOORE, recalled
 5 MR. WISER: Some of these may be
 6 things that you covered in your report or through
 7 your testimony, but it's been such a long time, I
 8 just want to make sure that they're covered. And if
 9 you'll bear with me as I go through my notes.
 10 There has been assertions on behalf
 11 of the petitioners or by the petitioners that
 12 there's a lack of public investment, township
 13 investment in South Seaside Park. And I was
 14 wondering whether you have had the opportunity to go
 15 over, back a number of years and quantify what that
 16 public investment is or was not.
 17 MR. MOORE: I think when we talked
 18 about this before, I had presented the ordinances
 19 that were passed over the last six years, as exhibit
 20 eight. And in that exhibit, we had indicated which
 21 ones we felt related to South Seaside Park.
 22 MR. MICHELINI: This is in your
 23 report, correct?
 24 MR. MOORE: Yes.
 25 MR. MICHELINI: When you say

1 exhibit eight, you're actually referring to the
 2 report that was marked in evidence?
 3 MR. MOORE: Yes.
 4 MR. MICHELINI: Go ahead.
 5 MR. MOORE: Do you see that? Eight.
 6 MR. WISER: Schedule eight.
 7 MR. MOORE: Okay. I'm sorry.
 8 Schedule eight. Yes.
 9 MR. WISER: Okay.
 10 MR. MOORE: And so, what I did was
 11 list the ordinances from 2015 back six years. And
 12 the far right column indicated which ordinances, in
 13 my mind, related to South Seaside Park, SSP.
 14 MR. WISER: Now, you said six years.
 15 This says four.
 16 MR. MOORE: You know what, I expanded
 17 this one and I forgot to update the heading.
 18 MR. WISER: Okay. So, it is six
 19 years.
 20 MR. MOORE: Yes. It's '15, '14, '13,
 21 '12, '11 and '10.
 22 MR. WISER: Okay. Are the ordinances
 23 appended here or are you just --
 24 MR. MOORE: What does that mean?
 25 MR. WISER: Did you include the

1 ordinances themselves in your report?
 2 MR. MOORE: You mean a copy of the
 3 ordinance?
 4 MR. WISER: Yeah.
 5 MR. MOORE: No.
 6 MR. WISER: Okay.
 7 MR. MOORE: But, I mean, these
 8 totals, if you were to pull the ordinances, were in
 9 agreement with, you know, what the ordinance equals.
 10 MR. WISER: Sure.
 11 MR. MOORE: And, you know, they seem
 12 to pass an ordinance each year in Berkeley,
 13 approximately the same amounts, you know. I thought
 14 it a very fiscally sound approach to the ordinances.
 15 Not what was spent on South Seaside Park, but --
 16 MR. WISER: Okay. So, would you
 17 consider there to be a lack of public investment in
 18 South Seaside Park?
 19 MR. MOORE: It seems minimal based on
 20 the total dollars.
 21 MR. WISER: Vis-a-vis what's spent
 22 elsewhere or total dollars as raw dollars?
 23 MR. MOORE: Total dollars spent in
 24 the rest of the township versus Seaside Park.
 25 MR. WISER: By comparison. Okay.

10

1 South Seaside Park?
 2 MR. MOORE: South Seaside Park.
 3 MR. WISER: Is there a correlation in
 4 terms of the size of the mainland section and what
 5 is spent there versus the size of South Seaside Park
 6 and what was invested there?
 7 MR. MOORE: You know, size, I didn't
 8 get into any size calculations.
 9 MR. WISER: Okay. I apologize. Bear
 10 with me.
 11 MR. DePAOLA: That's okay.
 12 MR. WISER: Just a second. Were you
 13 able to break out -- and, again, I apologize if I'm
 14 just not remembering this -- but were you able to
 15 break out the beach badge revenue?
 16 MR. MOORE: Yes.
 17 MR. WISER: And that's in your
 18 report?
 19 MR. MOORE: Yes.
 20 MR. WISER: Okay. And you were able
 21 to break out, I think I recall the lifeguard
 22 expenditure, the line item for the lifeguards,
 23 correct?
 24 MR. MOORE: Correct.
 25 MR. WISER: Did you break out --

1 there was a reference to beach buggy passes. Is
 2 that --
 3 MR. MOORE: I don't truthfully recall
 4 seeing that. But, I mean, it's -- hang on.
 5 Exhibit, schedule three, we've listed -- I've listed
 6 all of the revenues of the township. Possibly, you
 7 could identify which ones are the beach buggy
 8 permits.
 9 MR. WISER: I don't see anything that
 10 jumps out at me that would be pegged to that.
 11 MR. MOORE: You know, truthfully, I
 12 don't remember seeing that or recalling that as an
 13 item. Certainly, it could be buried in some other,
 14 one of these miscellaneous lines.
 15 MR. DePAOLA: Can I ask a question,
 16 Stu?
 17 MR. WISER: Yes.
 18 MR. DePAOLA: What relevance would
 19 beach badge and the lifeguards and the buggy have to
 20 do with --
 21 MR. WISER: Well, one of the things
 22 that we'll have to consider is, there's going to be
 23 a loss of some number of revenue, some amount of
 24 revenue to the township, if de-annexation moves
 25 forward, against savings that can be quantified for

12

1 not having to do certain -- provide certain services
 2 for South Seaside Park, should de-annexation move
 3 forward. So, I'm just trying to wrap my head around
 4 whether we know, from what's been presented, the
 5 total universe of revenue versus cost savings.
 6 MR. DePAOLA: Okay. Thank you.
 7 MR. MOORE: Stu, somebody in the
 8 audience indicated there was three beach buggies.
 9 MR. DePAOLA: I don't even know what
 10 a beach buggy is.
 11 MR. MOORE: Three.
 12 MR. WISER: There was a reference to
 13 beach buggy passes, so --
 14 MR. MOORE: Yeah.
 15 MR. WISER: -- obviously, presumably,
 16 there's a program. How extensive that program is,
 17 that's one of the things we're trying to find out.
 18 MR. MOORE: I think he said three.
 19 MR. WISER: Okay. Well --
 20 MR. DePAOLA: Can I ask again.
 21 What's a beach buggy?
 22 MR. WISER: I don't know. That's my,
 23 I think, my point. There was a reference made by a
 24 previous witness that there were beach buggies. I'm
 25 sort of trying to get a handle on what that is. It

1 wasn't our witness that presented it, so I'm trying
 2 to get a handle on what that purportedly is.
 3 MR. MICHELINI: Mr. Wiser --
 4 MR. CALLAHAN: Somebody can drive
 5 their four-wheel vehicle on the beach.
 6 MR. WISER: Okay.
 7 MR. MICHELINI: Maybe the question
 8 would be helpful as to whether or not the schedule
 9 includes all the revenue, whether it's from beach
 10 buggies or other revenue in the township. If it
 11 does, then it's in his report. It may not be broken
 12 out, but it's in there or it's in category, but not
 13 identified as beach buggy revenue.
 14 MR. WISER: Well, I understand that,
 15 but if -- I don't know what we don't know at this
 16 point, so I'm just trying to, just like I said, wrap
 17 my head --
 18 MR. MICHELINI: I wasn't sure if you
 19 were asking -- your question was, does this
 20 represent all the revenue or not. If the question
 21 is, does his schedule represent all of the revenue,
 22 I believe he would answer yes to that. If that's
 23 your question, then it's -- then we can move on. If
 24 that's not your question, you have a different
 25 question.

1 MR. DePAOLA: I think -- excuse me if
 2 I may. I think the revenue is the most important
 3 thing. Whether they have buggies or whatever, it's
 4 still the revenue that we're trying to wrap our --
 5 MR. WISER: Well, and I agree. I
 6 just was trying to make sure that this revenue, all
 7 of the revenue is captured on here. And if we don't
 8 have an answer for the beach --
 9 MR. MOORE: It is all, it is all
 10 captured on there.
 11 MR. WISER: That's fine. Okay.
 12 MR. MOORE: It's just on the --
 13 MR. DePAOLA: As long as it's on
 14 there as revenue, that's fine. Doesn't make any
 15 difference whether it's a beach shovel or a buggy or
 16 whatever they use.
 17 MR. MICHELINI: Correct. We agree.
 18 Exactly. Okay.
 19 MR. WISER: I'm trying to go through
 20 as quickly as I can --
 21 MR. DePAOLA: Sure. Go ahead. Take
 22 your time.
 23 MR. WISER: -- Mr. Chairman.
 24 I know we did go over the police
 25 numbers a number of times.

1 MR. MOORE: Yeah. Yes.
 2 MR. WISER: The planner, Mr. Bauman,
 3 spoke in his report about, I'll just read, any
 4 withdrawal of South Seaside Park pupils from the K
 5 through six local district, school district, or the
 6 middle regional school districts would result in a
 7 financial savings to the school district.
 8 What were you -- can you refresh our
 9 memory what your findings were for that.
 10 MR. MOORE: The only -- my indication
 11 to you and what I put in my report was, the only
 12 savings that I can envision is if there is a bus
 13 route. And I don't know if that's true or it is not
 14 true. There's no quantification in here of any
 15 dollar savings for that, the local district. And,
 16 you know, I think last week, one of the gentlemen
 17 brought up the possibility of the different state
 18 aid.
 19 MR. MICHELINI: Last meeting? You
 20 didn't meet last week. You were here alone last
 21 week if you were here last week.
 22 MR. MOORE: Then --
 23 MR. MICHELINI: I know -- we know
 24 what you meant.
 25 MR. MOORE: I meant last year.

1 MR. WISER: Many moons ago.
 2 MR. MOORE: Many moons ago. Thank
 3 you.
 4 And, you know, I don't know if he was
 5 going to try to pursue that information or not.
 6 MR. WISER: I think that happened
 7 right at the end of the meeting and everybody was
 8 sort of a little fried.
 9 MR. MOORE: Correct.
 10 MR. WISER: Would you -- what would
 11 be -- it's hard to say without knowing exactly what
 12 he was going to testify to. But do you think,
 13 standing here this evening, we can rely on any
 14 representations about school aid that may or may not
 15 be forthcoming or to the schools? I'm not -- it's
 16 almost an unfair question. But given the history of
 17 how school funding, school aid has been allocated,
 18 is there any way to, in your opinion, to really
 19 estimate how de-annexation will change the funding
 20 formula for --
 21 MR. MOORE: I think -- I think what
 22 we brought out was that if somebody from the
 23 township were to contact the State Department of
 24 Education, they would have some better ability to
 25 ask them to run the calculation.

1 What the other gentleman brought up
2 was that, in his opinion, there was two stratus of
3 the populations, South Seaside Park and the rest of
4 Berkeley Township. South Seaside Park, he indicated
5 that they had a higher per capita income, so to
6 speak, and that the rest of Berkeley Township was
7 lower. Under normal circumstances, if a higher per
8 capita income were to leave, they're going to fund
9 more for the lower per capita income. So, based on
10 what he indicated, I would think there is some
11 chance of getting additional aid.

12 MR. WISER: Understood what that -- I
13 guess even if we were, if somebody from the
14 township, were to get an absolute number today for,
15 from the Board of -- the State Department of
16 Education, in your experience, how reliable would
17 that number be moving into the future?

18 MR. MOORE: No one can tell, you
19 know, and that's why I did not put any indication in
20 this report as to a number.

21 MR. WISER: Understood.

22 Did you do any calculations or any
23 analysis as relates to the financial impact, one way
24 or the other, for the Berkeley Township Sewage
25 Authority?

1 MR. MOORE: There shouldn't be any,
2 any. They're going to stay in that authority.

3 MR. WISER: They are?

4 MR. MOORE: Yeah.

5 MR. WISER: Do we know that?

6 MR. MOORE: Yes.

7 MR. WISER: How do we know that?

8 MR. MOORE: It was in Mr. Bauman's
9 report.

10 MR. WISER: How does he know that? I
11 guess my --

12 MR. MOORE: Seaside Park is part of
13 that also.

14 MR. WISER: Seaside Park is serviced
15 by the Berkeley Township Sewage Authority?

16 MR. MOORE: As far as I know.

17 MR. BACCHIONE: No.

18 MR. MOORE: No.

19 MR. DePAOLA: I'm the chairman of the
20 Sewage Authority.

21 MR. MOORE: Well, let me ask you
22 something. Is the Berkeley Township Sewer Authority
23 servicing South Seaside Park at the moment?

24 MR. DePAOLA: Yes.

25 MR. MOORE: They are?

1 MR. WISER: So, would there --

2 MR. DePAOLA: But not Seaside Park.
3 South Seaside Park. Berkeley.

4 MR. MOORE: Sewage Authority, the
5 servicing?

6 MR. DePAOLA: Yeah, South Seaside
7 Park. Not Seaside Park.

8 MR. MOORE: Then to your answer your
9 question, I did not do an analysis of that.

10 MR. WISER: The last thing I want to
11 do is put you on a hot seat now with a specific
12 number, but, based on your understanding of
13 authorities and things like that, can you say that
14 there at least would or would not be some impact?
15 Are you able to say that?

16 MR. MOORE: Well, my question back to
17 you would be, why would there be an impact? If the
18 Authority is going to service South Seaside Park,
19 why can't they continue to do that?

20 MR. WISER: Well, I don't know. For
21 any number of reasons, one of which, depending on
22 how they're chartered, they may not be permitted to
23 service a portion of a municipality outside the
24 borders of Berkeley Township, wherever they may --
25 however they may be drawn. So, you know, we have, I

1 think, an assumption that there was, that they would
2 continue to service. But you don't -- we don't know
3 that. And I was hoping the petitioners would be
4 able to provide us some information.

5 MR. MOORE: Not from my -- not the
6 report I did.

7 MR. WISER: That, Mr. Chairman, that
8 is all that my notes say I have.

9 MR. McGUCKIN: Can I ask a couple,
10 Mr. Chairman, just to follow up on that?

11 MR. DePAOLA: Of course.

12 EXAMINATION BY MR. McGUCKIN:

13 Q I think you indicated that when you
14 were talking about improvements in South Seaside
15 Park, you looked at the bond ordinances?

16 A Correct.

17 Q And determined what portion of those
18 bond ordinances were dedicated for South Seaside
19 Park? Is that the way you came to your conclusion?

20 A Yes.

21 Q And your conclusion was that you did
22 not think there was a -- well, your conclusion is
23 that there was somehow not enough money expended in
24 South Seaside Park?

25 A I did not say that. I

1 said there's --
 2 Q What did you say?
 3 A -- a minimal amount that was spent in
 4 South Seaside Park.
 5 Q Okay. And you based that upon the
 6 projects that are noted in the bond ordinance for
 7 purposes of South Seaside Park?
 8 A Correct.
 9 Q Did you do any calculations as to the
 10 portions of the bond ordinances for capital
 11 improvements, for instance, for police cars or for
 12 fire services or for other public improvement
 13 projects or computers for town hall, that kind of
 14 thing?
 15 A All of those things are listed in
 16 here. And I did not allocate any cost related to
 17 those and put it against South Seaside Park. Does
 18 that answer your question?
 19 Q I think so, yeah.
 20 A Okay.
 21 Q That's what I was trying to figure
 22 out.
 23 So, if South Seaside Park was ten percent of
 24 the rate base, you didn't calculate ten percent of
 25 those other -- if South Seaside Park represented,

1 for instance, ten percent of the rate base, you
 2 didn't calculate ten percent of the bonded
 3 improvements for other things in town that benefited
 4 the entire town as opposed to a section of the town?
 5 A Correct.
 6 Q You were talking about just roads or
 7 public improvements in the streets or roads or et
 8 cetera?
 9 A Correct.
 10 Q And how about with respect to bonded
 11 improvements by the Sewage Authority?
 12 A There's no --
 13 Q Any calculation at all?
 14 A No, none.
 15 Q So, if they -- that, if there was
 16 expenditures made in that side, that's not included
 17 in your report?
 18 A Nothing to do with the Sewer
 19 Authorities in this report.
 20 Q And did you do any calculation or any
 21 investigation as to improvements that were made
 22 without using bond money? By that, I mean, just pay
 23 as you go projects that were paid for by Berkeley
 24 Township, but not -- in South Seaside Park, but not
 25 utilizing bond funds?

1 A That would be very, very difficult to
 2 ascertain.
 3 Q So, you -- I understand. I just want
 4 to make sure that it's not in your report, because
 5 it would be very difficult to ascertain. And so
 6 it's not in there?
 7 A Correct.
 8 Q Okay. And did you review any bonds
 9 that were canceled or -- where funds were
 10 transferred from one project to another subsequent
 11 to their adoption?
 12 A No.
 13 Q That could have been done?
 14 A It could have been done.
 15 MR. MCGUCKIN: Thank you,
 16 Mr. Chairman.
 17 MR. DePAOLA: Okay. Anything? Any
 18 further? Okay.
 19 MR. HAINES: Mr. Chairman, may I?
 20 MR. DePAOLA: Sure.
 21 MR. HAINES: Just one clarification.
 22 The second night you were here, you submitted what
 23 is I think labeled as Exhibit A-50, which was a cost
 24 for police.
 25 MR. MOORE: Yes.

1 MR. HAINES: It was after your
 2 original report was done. And could you just
 3 clarify how the -- I understand the first page, was
 4 you determined that it was going to be five
 5 officers, one sergeant and the cost of a car was
 6 going to be a total of \$841,000. When I look at
 7 your financial impact summary and I compare that to
 8 your original report, the cost, based on associated
 9 percentages, the amounts expended for South Seaside
 10 Park went up from the original report of 1,660,458
 11 to 2,399,582. It's only a difference of 739,124.
 12 Why --
 13 MR. MOORE: I think we went over
 14 this.
 15 MR. HAINES: It's just for
 16 clarification.
 17 MR. MOORE: It's okay. I know. I
 18 went in and reduced the original police allocation
 19 because I didn't -- I thought there was certainly
 20 going to be a reduction when we discounted the
 21 police officer.
 22 MR. HAINES: So, the savings that
 23 were in the original, projected savings in the
 24 original report --
 25 MR. MOORE: Were reduced by

1 25 percent.
 2 MR. HAINES: Okay. No further
 3 questions. Thank you.
 4 MR. DePAOLA: Okay. Anybody --
 5 MR. MICHELINI: May I proceed? I
 6 just said may I --
 7 MR. DePAOLA: Mr. Michelini, sure.
 8 MR. MICHELINI: May I proceed?
 9 Unless anybody else has questions.
 10 MR. DePAOLA: Does anybody have any
 11 questions? Seeing none. Go ahead.
 12 FURTHER EXAMINATION BY MR. MICHELINI:
 13 Q Okay. Mr. Moore, as you indicated
 14 last time we were here, we spoke a little bit about
 15 school debt. Mr. Mackres asked questions about why
 16 Seaside Park shouldn't be required to keep the
 17 school debt. Have you -- do you have an answer to
 18 that?
 19 A Yes. And I should have thought of
 20 this when we were here last time. But the
 21 difference between the school debt and municipal
 22 debt is gigantic. When the municipality separates
 23 in a de-annexation, they're going to take
 24 infrastructure, possibly some buildings, maybe
 25 equipment. That --

1 MR. WISER: Who's going to take? I'm
 2 sorry. You said, they're going to take. Who?
 3 Who's going to take?
 4 MR. MOORE: South Seaside Park. But
 5 in the school situation, no assets are going to
 6 transfer to South Seaside Park. And that's --
 7 that's the reason that the debt of Berkeley Township
 8 would follow South Seaside Park. And we talked
 9 about that. We said ten percent of the debt,
 10 thereabouts, would follow South Seaside Park and
 11 would become part of the other municipality that, if
 12 they were adjoined with one. But in the school
 13 situation, there are no assets being transferred.
 14 Q There's no assets in South Seaside
 15 Park, correct?
 16 A Right. Correct. And even if there
 17 were, they would still remain part of the school
 18 district, not part of South Seaside Park.
 19 Q Just a moment ago, you indicated that
 20 we had asked the board at the last meeting or the
 21 meeting before that, I can't remember which, about
 22 making a request for additional school aid. Has
 23 anybody communicated that the board has done that or
 24 that Berkeley has done that, seeking a calculation
 25 from the State as to what would happen in the event

1 of de-annexation?
 2 A I mean, I think we just discussed
 3 that. And I'm not aware that anybody has done that.
 4 Q No one has communicated with you --
 5 A No.
 6 Q -- in terms of providing that
 7 information?
 8 A No.
 9 Q Also, I believe I made a request --
 10 we got into a lot of police numbers. And one of the
 11 things that we could not get due to the over log,
 12 which provides protection in this particular area
 13 for the police, is schedules, things of that nature,
 14 for the reason that it might compromise the police
 15 ability to do their job. And, therefore, I don't
 16 know whether they wanted to furnish that
 17 information. Do you recall that discussion?
 18 A Yes.
 19 Q Okay. And I made a specific point of
 20 saying, well, perhaps the board could get that
 21 information. I haven't received that information.
 22 Have you received that information?
 23 A No.
 24 Q With the understanding that we would
 25 keep it confidential just for the experts and the

1 attorneys and the board.
 2 A No.
 3 Q Okay. After the last meeting, did
 4 you specifically -- it got rather acrimonious
 5 between myself and Mr. McGuckin. We've since made
 6 up. But after the last meeting, you obviously kept
 7 your calm during your testimony. And specifically,
 8 as I recall, made a request or an offer, rather, to
 9 meet with anybody in terms of the board
 10 professionals or even the board members informally
 11 to talk about your testimony. Did you make that
 12 offer?
 13 A Yes.
 14 Q Did anyone take you up on that offer?
 15 A No.
 16 Q Last time, you were asked about the
 17 benefit to South Seaside Park residents. Have you
 18 looked at or examined what benefit -- I'm sorry --
 19 to Seaside Park residents, not South Seaside Park.
 20 I think you already testified that there would be a
 21 benefit to South Seaside Park, in essence,
 22 correct --
 23 A Yeah.
 24 Q -- in the event of de-annexation?
 25 A Yeah.

1 Q With regard to Seaside Park
2 residents, have you looked at whether or not they
3 would be harmed or hurt by de-annexation or
4 benefited in any way?
5 A I know Mr. McGuckin was very
6 interested to find out what the consequences were
7 to, you know, the residents of South Seaside Park
8 joining with Seaside Park. And I did prepare a
9 schedule. I'm always hesitant to give out more
10 financial information because it always confuses
11 everyone, including myself.
12 MR. MICHELINI: Why don't we have it
13 marked as an exhibit before we hand it out. That
14 way, we keep the record clear.
15 (The Analysis prepared by Mr. Moore
16 of impact on Seaside Park budget if de-annexation is
17 granted was marked as A-54 for identification.)
18 BY MR. MICHELINI:
19 Q Okay. Mr. Moore, before you get into
20 your testimony regarding the handout that's been
21 marked A-54, for the record, would you describe what
22 A-54 is.
23 A All right. What I did was, I tried
24 to do an analysis on a very, very high level of what
25 South Seaside Park's rate, tax rate would be, with

1 and without the de-annexation.
2 Q South Seaside Park or Seaside Park.
3 A Seaside Park. I'm sorry.
4 Q I want to keep -- I want to keep the
5 record clear. And I know it's very confusing and
6 everybody's --
7 A Seaside Park.
8 Q -- everybody's made the mistake.
9 A Okay.
10 Q Not just you. I think Mr. Wiser has
11 done it. I've done it. Mr. McGuckin's done it.
12 So, you're in good or bad company, depending upon
13 how you view the rest of us. But this relates to
14 Seaside Park, right?
15 A Seaside Park.
16 Q Okay. And it says, impact on budget
17 after de-annexation, correct?
18 A Correct.
19 Q And that's -- so that, A-54 is
20 analysis, is your analysis of the impact on the
21 Seaside Park budget if de-annexation is granted?
22 A It's -- yes, it's going to have some
23 information that will allow us to view the increase
24 that would be allowable by Seaside Park if
25 de-annexation were to take place.

1 Q And that's --
2 A I can explain that.
3 Q Go ahead. And this was in response
4 to Mr. McGuckin's question?
5 A Yes.
6 Q Okay. So, go ahead. That's, the
7 numbers are your expertise, so I'll let you talk
8 about them. Go ahead.
9 A What I tried to do was lay this out
10 as easily, you know, as easily as I can, to make it
11 understandable to me. On the very top, we have what
12 the current assessment is, \$1,118,000,000. Their
13 rate, current rate, based on this budget that
14 they've introduced, the current budget they've
15 introduced, will be 47 and eight cents, 47.8. Does
16 everybody see that? With the total levy of
17 5,000,349.
18 After the de-annexation, with the addition of
19 the approximately \$500 million of South Seaside Park
20 assessments, the assessment would be 1,000,662 --
21 1,000,000,662. Everybody good so far? Based on
22 that, the levy tax rate would drop down to 32 cents,
23 putting the debt in, which is the only known number,
24 theoretical known number, of about \$440,000. The
25 rate would go to 34.8.

1 If we were to keep the tax rate the same,
2 they would be able to increase their budget by
3 \$2,600,000. The current budget is what is right
4 under the \$2,600,000. So, operations,
5 eight million nine; grants, 50,000; capital; debt
6 and the -- for Rod, I put this in, the reserve for
7 uncollected taxes. If they were to spend all of the
8 two million, six and add it to their budget, they
9 would be able to increase their operations by
10 23 percent.
11 MR. WISER: So --
12 MR. MOORE: Go.
13 MR. WISER: The total, I'm looking at
14 your first column, under without debt.
15 MR. MOORE: Yes.
16 MR. WISER: The total local levy does
17 not change.
18 MR. MOORE: I did not change that,
19 no. I have to have some stable number to work off
20 of.
21 MR. WISER: How did you or did you
22 factor in -- and if you did, can you show us
23 where -- additional cost to Seaside Park?
24 MR. MOORE: That's what I just did.
25 So, at the very bottom where you have increase,

1 there's a column, the second column in. Increase --
 2 MR. WISER: Yeah. No, I'm with you.
 3 MR. MOORE: -- 2,000,094, that's the
 4 amount they could increase their budget without
 5 raising their current rate.
 6 MR. WISER: Okay. Okay.
 7 MR. MOORE: Which equates to
 8 23 percent. I'm not going to speculate on if they
 9 would be able to increase it by \$2 million and
 10 actually spend that. It seems a little farfetched.
 11 BY MR. MICHELINI:
 12 Q Why does it seem farfetched?
 13 A Well, you know, even if they
 14 increased it by ten percent, which is double what
 15 we're saying the cost savings are in this township,
 16 that, that would equate to a million dollars, not
 17 23 percent. So, once again, and I did not do, you
 18 know, complete analysis of their budget. I was not
 19 going to do that. I just wanted to provide some
 20 level of comfort that there's enough money that
 21 would be generated if they kept the rate the same,
 22 to more than offset any additional cost.
 23 MR. WISER: So, you're saying, just
 24 so I understand it, the two million number, 2,094
 25 and change, is monies that would be available to

1 Seaside Park, without raising the taxes of everybody
 2 who is the original Seaside Park property owners?
 3 MR. MOORE: Correct. Without raising
 4 the rate, yes.
 5 MR. WISER: The rate?
 6 MR. MOORE: Yeah, that's correct.
 7 MR. WISER: So, they all stay the
 8 same and the township gets a little more than
 9 two million?
 10 MR. MOORE: Just in operations. I
 11 also made sure we put in the debt number of 441,000
 12 and the 65,000. Because, in that case, the reserve
 13 for uncollected taxes would go up.
 14 BY MR. MICHELINI:
 15 Q So, the cost, just so I can follow up
 16 on Mr. Wiser's questions, the cost that you
 17 calculate that Berkeley would save through
 18 de-annexation are around a million dollars?
 19 A No, I'm not saying that. I'm saying
 20 that they could spend \$2 million. I do not know how
 21 much over and above their current budget they can
 22 spend.
 23 Q Right.
 24 A Half of that would be ten percent,
 25 which is what, you know, we're giving up to Berkeley

1 Township.
 2 MR. MICHELINI: Okay.
 3 MR. WISER: When you say they can
 4 spend, what would be the limiting factor?
 5 MR. MOORE: Well, the limiting factor
 6 is the rate. All I'm trying to do is keep the rate
 7 the same.
 8 MR. WISER: Okay.
 9 MR. MOORE: Yeah. That's all this
 10 is -- that's all this is purporting to do is, is to
 11 show how much they would have available keeping the
 12 rate the same. There's no other analysis involved
 13 in this at all.
 14 BY MR. MICHELINI:
 15 Q Generally speaking, given the
 16 information that you've looked at and recognizing
 17 you haven't done a full analysis of the budget,
 18 would there be a benefit to the Seaside Park
 19 residents in the event of de-annexation of South
 20 Seaside Park from Berkeley?
 21 A Yes, I think so.
 22 Q And that's based on the numbers
 23 without even changing the rate, correct?
 24 A Correct.
 25 Q And I believe you already testified

1 there would be a benefit to the members or the
 2 people that live in South Seaside Park as well?
 3 A And this bears that out also, yes.
 4 Q And that's in your former schedule of
 5 property values and taxes and what would happen in
 6 that regard?
 7 A Correct.
 8 MR. MICHELINI: I don't want to go
 9 back into that because we already covered that.
 10 Okay.
 11 MR. MCGUCKIN: Mr. Michelini, can I
 12 just ask a question on this?
 13 MR. MICHELINI: Sure.
 14 MR. MCGUCKIN: Just so I understand.
 15 MR. MICHELINI: Sure.
 16 FURTHER EXAMINATION BY MR. MCGUCKIN:
 17 Q Looking at your column with debt, the
 18 Seaside Park tax rate, assuming they didn't increase
 19 their budget, would be 0.348?
 20 A Correct.
 21 Q So, that would result in a 13-cent
 22 tax reduction for the South Seaside Park residents
 23 from what they currently pay?
 24 A Seaside Park.
 25 Q That would be the new rate in Seaside

1 Park?
 2 A Correct.
 3 Q And what are the -- what is the South
 4 Seaside Park resident, what are they paying now?
 5 A Sixty cents.
 6 Q So, that would be a large reduction
 7 for them? That would be 46 cents? 45 cents?
 8 A Thirty cents. Thirty -- 26 cents.
 9 Q Twenty-six cent tax reduction for
 10 South Seaside Park residents if they became part of
 11 Seaside Park?
 12 A Correct.
 13 MR. HAINES: May I ask something
 14 there? But that's with the assumption that their
 15 current services that Seaside Park is offering,
 16 their number of officers, their number of public
 17 works, does not need to change?
 18 MR. MOORE: Based on what that last
 19 question was.
 20 MR. HAINES: Based on that last
 21 question?
 22 MR. MOORE: Yeah. Right. That's
 23 correct.
 24 MR. HAINES: Which I don't believe
 25 you can consider that, the addition of South Seaside

1 Park to the ratable base is a 50 percent increase?
 2 MR. MOORE: I agree. And all -- you
 3 know, we're talking ratable base versus population.
 4 So, you'd have to get into a lot more calculations
 5 here. But all this is trying to do is to say,
 6 here's how many dollars they can avail themselves to
 7 and not change the rate. That's all this is. And
 8 that's why I always hesitate to give out these
 9 little schedules.
 10 MR. DePAOLA: I got just one
 11 question. Is all -- is this -- is this all, all
 12 proof of this?
 13 MR. MOORE: Excuse me?
 14 MR. DePAOLA: Is this all the data
 15 you have on -- I mean, did you get this?
 16 MR. MICHELINI: Where did you get the
 17 information?
 18 MR. MOORE: Oh, where I did I get the
 19 information?
 20 MR. DePAOLA: Yeah. I mean, it has
 21 to be more complex than this.
 22 MR. MOORE: Have you seen the report,
 23 this, the original report I did?
 24 MR. DePAOLA: No, I didn't.
 25 MR. MOORE: Oh. Well, there's 25 to

1 30 pages in that. There is --
 2 MR. DePAOLA: That's what I want to
 3 make --
 4 MR. MOORE: All right. Then I
 5 understand where you're --
 6 MR. DePAOLA: Yeah.
 7 MR. MOORE: This is just a
 8 supplemental page based on the last meeting that we
 9 had. That's a great question, though. I mean, is
 10 this everything we did? No. So, I've been here,
 11 this is my third or fourth night here. So, I've had
 12 a lot of information.
 13 MR. DePAOLA: Okay.
 14 MR. MOORE: But all of these numbers
 15 are, appear in the other report also. You know,
 16 other than that, what the \$2 million is. But the
 17 assessments, the rates, there's no new information
 18 there. I don't know if that helps you or not, sir.
 19 MR. DePAOLA: Well, I mean, has -- I
 20 don't know, because this is new to me also. Has
 21 Seaside Park verified all these figures?
 22 MR. MOORE: These figures on here,
 23 the assessment is from the Ocean County Board of
 24 Taxation.
 25 MR. DePAOLA: Okay. So, you didn't

1 get it from Seaside Park, actually, you got it
 2 from --
 3 MR. MOORE: From the Ocean County
 4 Board of Taxation. Their budget amount is on their
 5 website. So, I did get that from them. And the
 6 rest is just a calculation. So, you know, any
 7 numbers that are on here have been verified in other
 8 locations.
 9 MR. DePAOLA: But my point is, you
 10 never went in there and actually talked to anyone at
 11 Seaside Park?
 12 MR. MOORE: Absolutely not.
 13 MR. DePAOLA: Oh, okay. All right.
 14 John?
 15 MR. BACCHIONE: Through the Chair.
 16 Mr. Moore, under the category, 2016 introduced
 17 budget, if you go down to debt, you go across to the
 18 right column, it's 1,082,315. That's the debt
 19 that's currently in Seaside Park's budget for 2016,
 20 correct?
 21 MR. MOORE: Correct.
 22 MR. BACCHIONE: Okay. If we move
 23 down further on the page to, under increase, and we
 24 go to debt, 441,350, does that represent the number
 25 that South Seaside Park is bringing to Seaside Park?

1 MR. MOORE: Yes.
 2 MR. BACCHIONE: Okay.
 3 MR. MOORE: Based on the 10.68
 4 percent of assessments, yes.
 5 MR. BACCHIONE: Okay. So, your
 6 calculation for the debt that Seaside Park is
 7 bringing to -- South Seaside Park is bringing to
 8 Seaside Park would be 441,350?
 9 MR. MOORE: Correct.
 10 MR. BACCHIONE: Okay. So, it would
 11 have increased their budget, assuming it would have
 12 happened, the de-annexation, to 1,523,665?
 13 MR. MOORE: Correct.
 14 MR. BACCHIONE: Okay. Thank you.
 15 MR. DePAOLA: Anyone else have any
 16 questions? Okay, Mr. Micheline. You can continue.
 17 FURTHER EXAMINATION BY MR. MICHELINI:
 18 Q Okay. Mr. Moore, the last time we
 19 were here, we spent a lot of time talking about
 20 police officers. And I know your original analysis
 21 only eliminated overtime, correct, for police in
 22 terms of looking at numbers; is that correct? Or
 23 you can explain.
 24 A It calculated a number based on
 25 population. And that number was applied against the

1 total budget, which was less than the overtime.
 2 Q Okay. Got it. And that, so your
 3 original calculations assumed that there would be no
 4 change in the police?
 5 A Correct.
 6 Q In terms of Berkeley Township?
 7 A Correct.
 8 Q And then I believe you testified that
 9 if one police officer was eliminated, it would
 10 result in -- what was your conclusion on that, if
 11 you recall? If you don't remember, that's fine.
 12 A \$841,000 for each car.
 13 Q Of savings?
 14 A Yes.
 15 Q And then if you go to two, it would
 16 be double that?
 17 A It would be double, right.
 18 Q Okay. And did you testify as to the
 19 amount of the effect on the -- the percentage effect
 20 on the -- in terms of loss of ratables, the net loss
 21 if one car or two cars were eliminated?
 22 A Yes.
 23 Q And if -- well, do you remember what
 24 those percentages are? If you don't recall, that's
 25 fine.

1 A If there was two cars, there was zero
 2 effect on the local purpose tax.
 3 Q And I know that we spent a lot of
 4 time in cross-examination. Is there anything else
 5 that you wanted to address to this board as a result
 6 of the cross-examination?
 7 A No.
 8 MR. MICHELINI: Okay. I have no
 9 further questions. Thank you.
 10 MR. DePAOLA: Thank you, Mr. Moore.
 11 Appreciate that.
 12 Does anybody have any questions?
 13 Mr. Callahan? Mr. Bell? Anyone? John?
 14 MR. BACCHIONE: No.
 15 MR. DePAOLA: Any of the
 16 professionals?
 17 MR. WISER: No.
 18 MR. MICHELINI: Okay. Mr. Fulcomer.
 19 MR. FULCOMER: James J. Fulcomer, 356
 20 Roberts Avenue, South Seaside Park. I have two
 21 exhibits.
 22 MR. DePAOLA: Mr. Micheline.
 23 MR. MICHELINI: Yes.
 24 MR. DePAOLA: Is this an expert
 25 witness or is this a resident witness?

1 MR. MICHELINI: Actually, it's kind
 2 of both. He's a former president of Berkeley
 3 Township Board of Education, so he'll testify about
 4 the issues that were brought up at the last meeting
 5 by Mr. Mackres and respond, really, solely to those
 6 issues.
 7 MR. DePAOLA: Okay. But not as an
 8 expert? That's what I'm trying --
 9 MR. MICHELINI: Well, I think you
 10 could consider him an expert insofar as he's -- I'll
 11 go through his resume. We'll let the board decide.
 12 MR. DePAOLA: Well, I know
 13 Mr. Fulcomer's -- I know what his --
 14 MR. FULCOMER: I'll give you a copy
 15 of the resume.
 16 MR. DePAOLA: -- resume is.
 17 MR. MICHELINI: So, I do think that
 18 he's an expert to some degree.
 19 MR. DePAOLA: I just want to know
 20 what your objective was.
 21 MR. MICHELINI: Sure.
 22 MR. FULCOMER: Here's two exhibits.
 23 (Off the record.)
 24
 25

1 JAMES J. FULCOMER, having been duly sworn, according
2 to law, upon his oath, testified as follows:

3 MR. MICHELINI: Okay. Mr. Fulcomer,
4 you have a curriculum vitae, a resume. And I'd like
5 to have that marked as an exhibit.

6 (The Resumé of James Fulcomer was
7 marked as A-55 for identification.)

8 EXAMINATION BY MR. MICHELINI:

9 Q Mr. Fulcomer, first of all, where do
10 you live?

11 A 356 Roberts Avenue, in South Seaside
12 Park section of Berkeley Township.

13 Q How long have you lived there?

14 A Year-round as a permanent resident
15 since 1997. And prior -- and I owned a house on
16 that peninsula, on Roberts Avenue Peninsula, since
17 1972.

18 Q Okay. And did you sign the petition
19 for de-annexation?

20 A No.

21 Q Why not?

22 A Because I was a member of the
23 Berkeley Township Board of Education and that would
24 have been a conflict of interest.

25 Q At the time that the petition was

1 submitted, correct?

2 A Yes.

3 Q You're no longer a member, correct?

4 A I'm no longer a member of the board
5 of education.

6 Q So, if we were presenting this
7 petition today, would you be a signer?

8 A Definitely.

9 Q I'd like to take you a little bit
10 through your education and your positions that you
11 held in education.

12 MR. MICHELINI: First of all, I'm
13 going to summarize. If Mr. McGuckin doesn't mind,
14 I'm going to lead him through this so that it goes a
15 little quicker.

16 MR. MCGUCKIN: Sure.

17 Q You have a bachelor's degree in
18 History from Kean?

19 A Yeah, a bachelor of education degree.

20 Q Okay. And when did you obtain that?

21 A 1966.

22 Q And I see you have a master of arts
23 in politics from the Department of Politics graduate
24 school in Arts and Sciences at New York University;
25 is that correct?

1 A Right. Yes, 1968.

2 Q And, just briefly, you were involved
3 in various school districts over the years, correct,
4 in various positions? Would that be accurate?

5 A Yes, but only in terms of teaching
6 one school district.

7 Q Okay. And where did you teach?

8 A I taught at Elizabeth High School and
9 its predecessor institutions for 42 years.

10 Q For 42 years?

11 A Yes.

12 Q And you're retired as a teacher now?

13 A I'm retired now, yes.

14 Q Okay. And in your position while you
15 were a teacher and after you retired from teaching,
16 did you hold various positions related to education?

17 A Yes.

18 Q Can you tell us what those positions
19 were? And you can just go through them. And tell
20 us how long you served in each such position.

21 A Well, I was a former Union County
22 Freeholder. And at that time, I was a liaison to
23 the County Educational Advisory Board. I was a
24 Rahway City council participant in negotiations with
25 the local school board on defeated school budgets.

1 I taught New Jersey government and history for 43
2 years. That was required by state law and still is,
3 as far as I know.

4 Then I was a U.S. history political science
5 teacher at Elizabeth High School. I was the former
6 chairman of the Berkeley Township Board of
7 Education, committee on state aid education. And I
8 was a sponsored author of Berkeley Township Board of
9 Education resolutions on state aid education. I'm a
10 former vice president with Berkeley Township Board
11 of Education and former president in Berkeley
12 Township Board of Education.

13 Q And how long --

14 MR. WISER: I'm sorry. Could you
15 just --

16 MR. DePAOLA: Yeah, please.

17 MR. WISER: Those last couple of --
18 repeat those last couple of lines. I didn't catch
19 them.

20 A I'm a former vice president of the
21 Berkeley Township Board of Education. And I am a
22 former President of the Berkeley Township Board of
23 Education. And I was in charge of a study on state
24 aid education during my last year. And I sponsored
25 a number of and wrote a number of resolutions on

1 state aid education, including the program which
 2 invited down one of our state senators because he
 3 liked us proposing reform on state aid.
 4 Q How long were you on the Berkeley
 5 Township Board of Education?
 6 A A little less than four years.
 7 Q And how long ago was that?
 8 A Three years. I got off the Board, I
 9 think it was three years ago.
 10 Q Okay. So, it was the four years
 11 before that. So, in the last seven years, four
 12 years you were on the board of education, correct?
 13 A Yes.
 14 Q All right. And besides the obvious
 15 budget information that you've had familiarity with,
 16 both in your positions as president and vice
 17 president but also as chairman the board of
 18 education committee on state aid and as the sponsor
 19 of various resolutions relating to state aid, did
 20 any of the other positions that you testified that
 21 you had, involve state aid?
 22 A Yes.
 23 Q Can you tell us what they are?
 24 A Well, during my entire 42 years I had
 25 to teach, I enjoyed teaching, as one of the units

1 required by state law, New Jersey government and
 2 history. And, of course, state aid was one of the
 3 things that we discussed with the students.
 4 Q Okay.
 5 A It varied from year to year over 42
 6 years. But, still, it was nice for them to
 7 appreciate how they got money from other communities
 8 to finance their education through state aid. I
 9 always felt they should appreciate that.
 10 And I was a faculty adviser for the political
 11 science club for over 35 years. And issues that
 12 related to education would come up every year in our
 13 programs, including state aid.
 14 Q So, you consider yourself --
 15 A Oh, and also, as a freeholder
 16 liaison, we would discuss state aid. Because the
 17 education committee was most interested in that.
 18 With the diverse point views on it, of course.
 19 MR. MICHELINI: So, I would offer
 20 Mr. Fulcomer as an expert educator who has a
 21 particular knowledge of state aid. I'm not going to
 22 say he's an accountant that works for a school
 23 system. But, obviously, he's an educator with a lot
 24 of experience in state aid. And I think that should
 25 be recognized.

1 MR. MCGUCKIN: Well, so, you're
 2 offering him as an expert in education?
 3 MR. MICHELINI: As an expert educator
 4 with particular knowledge of state aid, that is
 5 correct.
 6 MR. MCGUCKIN: And his knowledge of
 7 special -- of state aid is based upon his service on
 8 the school board and elected positions?
 9 MR. FULCOMER: And as an educator.
 10 MR. MICHELINI: That's correct. And
 11 based upon what he just testified to me. I mean,
 12 you can -- the weight that you assign to his
 13 testimony is entirely up to the board and -- but,
 14 certainly, he has expertise in state aid from
 15 experience. And that should be recognized. I think
 16 anybody who spent that amount of time in education
 17 doing what he does should be allowed to testify from
 18 his perspective on those things.
 19 MR. MCGUCKIN: I think if he's going
 20 to testify as to the history of state aid in
 21 Berkeley or Rahway or Elizabeth, that's fine,
 22 because he personally dealt with it. But if he's
 23 going to try to offer opinion as to the impact of
 24 Seaside Park leaving -- South Seaside Park leaving,
 25 what that's going to do to the Berkeley school aid,

1 I don't think that is at all within his scope of
 2 expertise.
 3 MR. MICHELINI: Well, certainly, it
 4 certainly may be within his scope of expertise. I
 5 think he's -- can testify having knowledge of state
 6 aid. Certainly, he can give an opinion. The weight
 7 you give to the opinion is up to you. But,
 8 certainly, he can give an opinion on those things.
 9 MR. MCGUCKIN: I don't see how he
 10 qualifies him as an expert in the field --
 11 MR. FULCOMER: If I can just
 12 respond --
 13 MR. MICHELINI: You can't talk. Go
 14 ahead.
 15 If you have something else that you'd
 16 like to say that qualifies you in response to
 17 Mr. McGuckin, I'll let you do that. But I want to
 18 let Mr. McGuckin finish.
 19 MR. MCGUCKIN: Basically, what I'm
 20 hearing is that he's well educated, understandably,
 21 and he's a successful teach -- many years as a
 22 teacher and elected official. But if that's the
 23 case, any teacher who's an elected official would be
 24 an expert in the fields that they served on as an
 25 elected official. That would make me an expert on

1 state aid. And I certainly don't consider myself
2 one.

3 MR. MICHELINI: Well, I'm going to
4 let -- if you will allow Mr. Fulcomer to respond to
5 that, Mr. McGuckin. Go ahead.

6 MR. DePAOLA: Well, if I may also,
7 Mr. Michelini.

8 MR. MICHELINI: Yeah.

9 MR. DePAOLA: Even though I do agree
10 with everything Mr. -- because I know Mr. Fulcomer
11 very well. I agree with everything he has said. I
12 was on the school board myself nine years. I'm
13 certainly -- believe me, I fought -- I fought to
14 stay on the Abbott Districts and the aid and
15 everything else. And there's no way he could ever
16 say what the state is going to do. And I was -- I
17 happened to be in there when South -- when
18 Seaside Park tried to get out of Central Regional.
19 I was all involved in all that. But, as you know,
20 that's very, very difficult. So, for him to speak
21 as an expert witness on state aid, he can speak on
22 state aid, that's fine, but -- and you can
23 understand what I'm saying.

24 MR. MICHELINI: Sure. Absolutely.

25 MR. DePAOLA: And I think

1 Mr. Bacchione, also, how many years did you serve on
2 the school board?

3 MR. BACCHIONE: Four years.

4 MR. MICHELINI: Okay. Well, you can
5 give it the weight that you want to give it. I'm
6 saying he should be allowed to speak on it.

7 MR. DePAOLA: Sure.

8 MR. MICHELINI: And you can decide
9 what kind of weight you want to give it.

10 MR. DePAOLA: But we're not going to
11 take it as a --

12 MR. McGUCKIN: To be clear for the
13 record, Mr. Chairman, if -- an expert opinion offers
14 expert testimony in a field that is not available to
15 the normal layman. And it's for that purpose that
16 expert testimony is offered, as opposed to factual
17 testimony, which Mr. Fulcomer certainly has, can
18 provide factual testimony.

19 MR. MICHELINI: And he will.

20 MR. McGUCKIN: Offering it -- and
21 that's fine. But offering opinion as an expert in
22 state aid is far different than offering testimony
23 as to the history of state aid in Berkeley Township.
24 And I don't think he should be permitted to venture
25 an opinion on the record as to what he believes the

1 state aid -- what state aid will -- what state
2 aid -- the impact of state aid on Berkeley Township
3 or Seaside Park would be in the event of
4 de-annexation. I don't believe he's qualified in
5 that field. It's a decision of the board. I
6 understand why he's been offered.

7 MR. MICHELINI: Well, quite frankly,
8 I think that he should be able to testify to that.
9 We'll provide some factual backup for his opinion.
10 We will provide some factual backup for that. But,
11 clearly, he has some knowledge of state aid from his
12 various positions that he's held. And not just as a
13 teacher, not just as a board of education member,
14 but going through the number of things that he
15 testified to and are set forth on his curriculum
16 vitae. Again, the weight that you choose to give it
17 is up to you. But he should be allowed to testify.

18 MR. McGUCKIN: He's allowed to
19 testify. It's a question of offering a professional
20 expert opinion that I believe is inappropriate. But
21 that's for the board to make a decision.

22 MR. MICHELINI: I would say, why
23 don't you let him testify and then the board can
24 decide how they want to handle it. But we'll offer
25 and the board can --

1 MR. McGUCKIN: Because I don't
2 believe it's appropriate for him to venture an
3 opinion on the record if he's not qualified to make
4 that opinion.

5 MR. MICHELINI: Well, I think he's
6 qualified to make it based upon the information,
7 based upon his expertise in dealing with state aid
8 in various positions. He's testified that he's had
9 to deal with state aid. Now, again --

10 MR. McGUCKIN: Mr. Chairman, I think
11 we can go back and forth all night. It's the
12 decision of the board whether to accept him as an
13 expert witness or as strictly a lay witness. And
14 that's a decision for the board to make.

15 MR. MICHELINI: There are experts
16 that have various expertise at various levels. His
17 level of expertise isn't going to be the same as an
18 economist that works for a school board. I
19 acknowledge that. But on the other hand, his
20 experience should be given some weight. And I'm
21 offering him as an expert.

22 MR. DePAOLA: Mr. Michelini, in all
23 due respect.

24 MR. MICHELINI: Yes.

25 MR. DePAOLA: I know you are trying

1 to do a job and so are we. And I appreciate it very
 2 much. I'm not trying to --
 3 MR. MICHELINI: Uh-hum.
 4 MR. DePAOLA: -- but we cannot
 5 take -- I know the New Jersey school boards. I know
 6 how they operate. I know how -- and they -- they
 7 are the only ones and they won't even speak to us,
 8 the State. Trust me. So, I personally -- and I
 9 will poll the board.
 10 MR. MICHELINI: Let me ask you a
 11 question about that, Mr. Chairman. Are you saying
 12 that if this board wrote a letter requesting the
 13 impact of state aid in the event of de-annexation
 14 from South Seaside Park, that you would not be able
 15 to get an answer to that question? Is that what
 16 you're saying?
 17 MR. DePAOLA: Are you asking me
 18 personally?
 19 MR. MICHELINI: I'm asking you based
 20 upon what you just said.
 21 MR. DePAOLA: No. You're asking me
 22 personally --
 23 MR. MICHELINI: Yes.
 24 MR. DePAOLA: -- what I think?
 25 MR. MICHELINI: Yes, based upon what

1 you just said.
 2 MR. DePAOLA: Yes, I -- I don't.
 3 MR. MICHELINI: Okay.
 4 MR. DePAOLA: I've been dealing with
 5 them a long time.
 6 MR. MICHELINI: Okay.
 7 MR. McGUCKIN: School districts and
 8 towns today can't be -- they're still not sure what
 9 they're going to get in state aid this year. The
 10 DCA is not going to tell us what their future is
 11 going to be.
 12 MR. DePAOLA: I mean, he can speak.
 13 And that's fine, Mr. Michelini. But we, at least I,
 14 feel that we can't take it as an expert witness. I
 15 hope you understand why.
 16 MR. MICHELINI: Well --
 17 MR. DePAOLA: He doesn't represent
 18 the state.
 19 MR. MICHELINI: I respectfully
 20 disagree. But, you know, that's my prerogative and
 21 your prerogative is to --
 22 MR. DePAOLA: And I appreciate that.
 23 That's fine. At least you are upfront with it. But
 24 I don't think he's a professional witness as far as
 25 state aid goes. I mean, that's my opinion. I would

1 like to poll the board, if I may. I would like to
 2 poll the board as an expert witness. Can I have
 3 roll call?
 4 MS. HUGG: Mr. Gingrich?
 5 MR. GINGRICH: No.
 6 MS. HUGG: Mr. Lorelli?
 7 MR. LORELLI: No.
 8 MS. HUGG: Councilman Bacchione?
 9 MR. BACCHIONE: With all due respect
 10 to my friend, Jim Fulcomer, no.
 11 MS. HUGG: Mr. Bell?
 12 MR. BELL: I don't have enough
 13 knowledge on it, so I'm going to say no.
 14 MS. HUGG: Mr. Callahan?
 15 MR. CALLAHAN: Abstain.
 16 MS. HUGG: Chairman DePaola?
 17 MR. DePAOLA: No.
 18 MR. MICHELINI: Okay. So, I will ask
 19 him as a fact witness about what he did to
 20 investigate the matter.
 21 MR. DePAOLA: Yes.
 22 BY MR. MICHELINI:
 23 Q Mr. Fulcomer, as a fact witness, did
 24 you do anything in order to determine whether or not
 25 there would be an impact that Berkeley would lose

1 state aid or whether that state aid would be made up
 2 by the state in the event of de-annexation of South
 3 Seaside Park?
 4 A Yes.
 5 Q What did you do?
 6 A I did two things. One, I sent a
 7 letter to our state legislative delegation --
 8 Q And who would that be?
 9 A -- and raised that question. That
 10 would be the illustrious Christopher J. Connors and
 11 Brian E. Rumpf@INC.GOV.
 12 Q And did you inquire of them
 13 specifically about South Seaside Park or Berkeley
 14 Township generally?
 15 A I asked a hypothetical question about
 16 if, for example, the Toms River zip code of Berkeley
 17 Township left, would there be any increase in state
 18 aid.
 19 Q Why did you ask it specifically about
 20 that as opposed to asking it about South Seaside
 21 Park?
 22 A Because years ago, a study was made,
 23 an analysis was made on a proposition that the
 24 Holiday City section of Berkeley Township might
 25 secede from the township. And I knew that they had

1 done that analysis. More than a decade ago, the
2 delegation did that analysis. So, there was some
3 talk in the township, in Holiday City of trying to
4 get out of Berkeley Township and join Manchester.

5 Q And you would think that that was
6 somewhat analogous, a section of the township
7 leaving?

8 A Because they had a record. They did
9 the job. And it certainly was analogous because if
10 Holiday City or the Toms River zip code section of
11 Berkeley Township left the township, it would be a
12 loss of tax ratables and that would have the impact
13 of having the state increase the state aid to
14 Berkeley Township. And their analysis indicated
15 that was the case.

16 And in the letter that I received from them,
17 they confirmed that analysis. They said, among
18 other things, that the Bayville section of the
19 township would have received more state aid if the
20 Holiday City section had left. And I'll just read
21 appropriate words on the second page. Under the
22 current state school aid formula, Berkeley Township
23 would receive additional state aid in the event that
24 the Toms River zip code section of Berkeley Township
25 seceded from the township.

1 Now, it's pretty much common knowledge with
2 anyone familiar with education --

3 Q Let me stop you there.

4 A Okay.

5 Q The letter that you received that
6 you're referencing, what's the date of that letter?

7 A March the 11th, 2016.

8 Q And who is that signed by? Is that
9 signed by the people you mentioned before?

10 A Yes, it's signed by Christopher J.
11 Connors, Brian E. Rumpf.

12 Q Rumpf?

13 A Rumpf@INC.GOV.

14 Q Okay. Could we have that marked?

15 A Yes. You can have the original with
16 their own -- with their signatures on it.

17 Now, my experience in this area, a
18 general principle, one of the many principles in the
19 educational area of finance education in our state,
20 is that the more ratables that stand behind each
21 student in the public school system, excluding the
22 special districts, formally called Abbott, is the
23 less state aid you're likely to get. And the less
24 ratables behind each student, the more state aid
25 you're likely to get.

1 Now, on page two of the law that's on
2 the website in the State of New Jersey, it says that
3 any school funding formula should provide for
4 up-to-date measures of the individual districts'
5 ability to pay. And that includes both tax ratables
6 and also income. Now, my understanding, based on
7 the testimony that has been given by this group and
8 statements made by representatives of the planning
9 board, their experts, is that if South Seaside Park
10 leaves Berkeley Township, you're likely to diminish
11 the income growth of the township and also
12 definitely diminish the tax ratable. So, based on
13 that principal, logically, there should be more
14 state aid. Now -- and at the very least, there
15 should be no reduction in state aid. And I was
16 quite surprised when somebody asked, raised the
17 question at the last board meeting that maybe there
18 would be a reduction of state aid. That would never
19 happen under these circumstances.

20 MR. MICHELINI: Let me have your
21 letter marked that you received, and show that to
22 the board.

23 (The Letter, 3/11/16 was marked as
24 A-56 for identification.)

25 (Off the record.)

1 MR. MICHELINI: We'll supply copies
2 to the board. I received this recently.

3 MR. FULCOMER: Do they need the
4 resumé?

5 MR. MICHELINI: I think we already
6 had that marked.

7 MR. FULCOMER: Okay. Do you have the
8 resumé marked?

9 MS. HUGG: Yes.

10 MR. FULCOMER: Okay.

11 BY MR. MICHELINI:

12 Q All right. So, Mr. Fulcomer, just
13 for clarification, this letter that you received
14 indicating that -- from the representatives,
15 indicating that under the current state school aid
16 formula, that Berkeley Township would receive
17 additional state aid in the event that Toms River
18 zip code section of Berkeley seceded from the
19 township, that letter was in response to your
20 request --

21 A Yes.

22 Q -- correct? And you wrote that as an
23 individual, correct?

24 A Yes, I did.

25 Q You didn't write that as a school

1 board?
 2 A No, I'm not a member of the school
 3 board.
 4 Q Okay. And it's fair to say that you
 5 conclude that something similar would happen in the
 6 event of South Seaside Park de-annexing, correct?
 7 A That would be logical.
 8 Q Do you have a copy of the study that
 9 was done ten years ago?
 10 A No.
 11 Q Okay.
 12 A But it's referenced in their letter.
 13 It's their study.
 14 MR. WISER: Who is they?
 15 MR. FULCOMER: Our legislative
 16 delegation.
 17 MR. WISER: So, they commissioned a
 18 study?
 19 MR. FULCOMER: They had -- an
 20 analysis was made, I guess, about ten years ago,
 21 more than ten years ago, with respect to the
 22 distribution of the state aid and a hypothetical
 23 situation based on the premise that the Holiday City
 24 section of Berkeley Township would secede from the
 25 township.

1 MR. WISER: Do you know who did the
 2 study?
 3 MR. FULCOMER: The ninth district
 4 delegation requested an analysis. And that analysis
 5 was done. And they said that you will recall that
 6 the analysis confirmed that the Bayville section of
 7 the township would have received more state aid.
 8 BY MR. MICHELINI:
 9 Q And they say that that's also true
 10 today?
 11 A Also, also -- yes, they say that's
 12 also true today.
 13 Q Now, the red underlining in the
 14 letter, is your underlining or their underlining?
 15 A No, my underlining.
 16 Q Okay.
 17 A Because it pertains to the issue
 18 before this board that was raised by Mr. Mackres.
 19 MR. MICHELINI: Okay.
 20 MR. MCGUCKIN: I've had a chance to
 21 look at it right now.
 22 EXAMINATION BY MR. MCGUCKIN:
 23 Q The analysis is not attached,
 24 correct?
 25 A No, they never attached the analysis.

1 Q And the letter, and the analysis they
 2 made over ten years ago was under the prior funding
 3 formula for school districts; is that correct? From
 4 ten years ago? Isn't that what that letter says --
 5 A Yes.
 6 Q -- the first page? And on the second
 7 page, they say under the current formula, you could
 8 assume that that could happen as well?
 9 A That is what they say.
 10 Q That's what they say?
 11 A Now, I will just point out, if I may,
 12 that in the old state aid formula, the role on
 13 ratables was basically the same as in the new state
 14 aid formula. But the new state aid formula has
 15 other components such as a greater emphasis on
 16 special education. But the fact of the matter is is
 17 that the principle that if you have more ratables
 18 per student, you should get less state aid. If you
 19 have less ratables per student, you should get more
 20 state aid, that is true of the previous ten year ago
 21 state aid formula. And it's true today.
 22 Q Well, let me ask you this, then. Do
 23 you know how many school districts are currently not
 24 funded at the appropriate state aid because there's
 25 not enough money?

1 A No, but I don't think that's
 2 pertinent.
 3 Q Well, you say that you would
 4 receive -- the town would receive -- the school
 5 direct would receive more state aid. But are you
 6 aware of other towns that under the formula are
 7 entitled to more aid, but don't receive it because
 8 there's not enough money to hand out?
 9 A Well, the point is is that in this
 10 letter -- and also, you can see very clearly that
 11 they back up the position, like I said. If their
 12 analysis indicates that we should get more money if
 13 the Toms River zip code leaves the township, the
 14 same sort of principle logically would follow --
 15 Wait, wait -- would follow with South Seaside Park.
 16 But let me take it one step further. The reason I
 17 am here is, a member of your board suggested that if
 18 you lost ratables from South Seaside Park, that that
 19 might mean that Berkeley Township is going to lose
 20 state aid. Well, that's utterly impossible under
 21 the previous state aid formula and the current state
 22 aid formula. It just would not happen. And, of
 23 course, we are being funded under that state aid
 24 formula.
 25 And, by the way, attached to the letter, you

1 will notice there's some documentation relative to
 2 the current money that Berkeley Township is
 3 receiving from the State. And we do receive money
 4 from the State.

5 Q Of course we do, as does most towns.
 6 But are you familiar with the fact that there are
 7 many school districts which do not receive what
 8 they're supposed to receive under that formula based
 9 upon the rate base and the fact that they have less
 10 ratables per student but they don't receive their
 11 full funding? Are you aware of that?

12 MR. MICHELINI: Are those
 13 de-annexation matters that you're talking about?

14 MR. MCGUCKIN: On any town that has
 15 ratables that are lost.

16 MR. MICHELINI: So, you're not
 17 talking about a secession or de-annexation like this
 18 letter?

19 MR. MCGUCKIN: I'm talking about the
 20 testimony of Mr. Fulcomer that less ratables will
 21 need more state aid.

22 MR. MICHELINI: In a de-annexation
 23 situation.

24 MR. MCGUCKIN: No. Less ratables
 25 equal more state aid is what he's testified to.

1 A Should. Should. But I never said
 2 would. I said should under the principles of our
 3 state law. And my main point is, you're not going
 4 to lose any state aid because you have lost
 5 ratables. That will not happen if you lost
 6 ratables. You will not lose any state aid. And
 7 that is what Mr. Mackres suggested at the last
 8 meeting.

9 Q My point is that you're assuming that
 10 we will receive, if we lost the ratables, meaning
 11 they went to South -- they went to Seaside Park,
 12 that the State aid would increase and make up for
 13 that. That's what you're suggesting to the board
 14 here.

15 A Should under the principles of state
 16 law. I'm not saying will. I know, I understand the
 17 fact --

18 Q Under the principles of state law --

19 A I --

20 Q I ask you one more time. You
 21 testified that you have this experience in
 22 education, are you familiar with the fact that there
 23 are hundreds of towns in this state who are entitled
 24 to a certain amount of state aid, under that state
 25 aid formula, but they don't receive that amount?

1 MR. MICHELINI: The question presumes
 2 that he's an expert. Are you --

3 MR. MCGUCKIN: No. He testified to
 4 it, Mr. Michelini. That's what he's testifying to.
 5 I'm entitled to cross-examine him on --

6 MR. FULCOMER: I can answer the
 7 question.

8 MR. MICHELINI: Well, let me just
 9 put --

10 MR. FULCOMER: I have no problem
 11 with --

12 MR. MICHELINI: -- something on the
 13 record. I'll allow you to answer the question. But
 14 what I'm going to say is, these are not matters of
 15 common knowledge. You have experts that address
 16 issues that are not matters -- this clearly is not a
 17 matter of common knowledge. This discussion, this
 18 colloquy, points out that this is a matter of
 19 expertise and he is an expert. And perhaps even
 20 Mr. McGuckin is an expert.

21 MR. DePAOLA: Okay. We --

22 MR. MICHELINI: I'll allow him to
 23 answer.

24 A I'm going to answer your question.

25 MR. DePAOLA: All right.

1 A I have been aware for years that the
 2 State of New Jersey has had state laws on school
 3 finance that have not been fully funded by the state
 4 legislature, which you are a part. And due to the
 5 fact that State of New Jersey has decided not to
 6 honor the full school funding formula at different
 7 points, I am aware of that problem. However, this
 8 is the law. And one thing for certain under this
 9 law, if you lose ratables, you're not going to get a
 10 cut in state aid.

11 Q No, but you may lose the ratables and
 12 not make it up with state aid.

13 A Hopefully, when the formula is fully
 14 funded --

15 Q Today's not what we're dealing with.

16 A Well, we would certainly hope so.
 17 And, of course, there is a provision in the law for
 18 a school district to appeal on this issue, as you
 19 are aware.

20 Q How many successful ones have been
 21 done?

22 MR. DePAOLA: Okay.

23 MR. MICHELINI: Just --

24 MR. FULCOMER: I just pointed out
 25 what's in the law.

1 MR. MICHELINI: Are you aware that
 2 one of the signers of this letter is a partner of
 3 Mr. -- is he still one of your partners,
 4 Mr. McGuckin?
 5 MR. MCGUCKIN: Mr. Michelini, that's
 6 ridiculous. Come on.
 7 MR. MICHELINI: I'm just asking.
 8 MR. MCGUCKIN: That's just absolutely
 9 ridiculous.
 10 MR. DePAOLA: He's --
 11 MR. MICHELINI: I'm just asking. Is
 12 he still one of your partners? Were you aware?
 13 MR. FULCOMER: Yes, I am aware.
 14 MR. DePAOLA: All right.
 15 MR. MICHELINI: He answered the
 16 question.
 17 MR. DePAOLA: Mr. Michelini. Please.
 18 In all fairness to you, I understand you're doing
 19 your job. I have --
 20 MR. MICHELINI: Yes, I am.
 21 MR. FULCOMER: Who also happens to be
 22 my representative.
 23 MR. DePAOLA: Hold on. I just didn't
 24 want the people that are here this evening to get
 25 the wrong impression. Because, actually, what I

1 could do, not say nothing and let it go through.
 2 Okay. But I think they need to understand this
 3 also. That I live in Holiday City. I've been an
 4 officer in our clubhouse for over ten years on and
 5 off. I have never, ever, ever heard that Holiday
 6 City wants to break away. I said, I never heard of
 7 it. And it's never been in our community. Never
 8 brought up at our meeting. So, my thing is, did it
 9 happen before I moved there? Maybe. But that had
 10 to be 20 years ago. But my point is, we're
 11 taking -- all, all Chris Connors did, was take
 12 something out of the book and write it up and send
 13 it to you, which is on the book. And I understand
 14 that. But he mentions Holiday City. Holiday City
 15 never, ever said they wanted to secede while I was
 16 there.
 17 MR. FULCOMER: Well, nobody --
 18 MR. DePAOLA: Brian, how long were
 19 you -- you were a president. Did you ever hear
 20 that?
 21 MR. GINGRICH: I was president at
 22 Holiday City -- are you ready?
 23 MR. MICHELINI: Go ahead.
 24 MR. GINGRICH: I was president at
 25 Holiday City for five years. There was never any

1 talk of any breakaway.
 2 MR. DePAOLA: I just, Mr. Michelini,
 3 I hope you understand what I'm trying to do here. I
 4 don't want the people to get out and leave here
 5 thinking, oh, we're going to save a lot of money on
 6 schooling. That's the only thing, or else I
 7 wouldn't even have brought it up. I hope you
 8 understand that. And I'm not trying to be -- I'm
 9 just giving you the facts.
 10 MR. MICHELINI: I'm not sure --
 11 Mr. Chairman, I appreciate what you're saying. I'm
 12 not sure if you're trying to testify or what the
 13 situation --
 14 MR. DePAOLA: No, I'm not testifying.
 15 MR. MICHELINI: Okay. All right.
 16 MR. DePAOLA: I'm only -- no. What
 17 I'm doing is saying that Holiday City, as an officer
 18 in our clubhouse for, on and off, for over ten
 19 years, never heard of seceding --
 20 MR. MICHELINI: Okay.
 21 MR. DePAOLA: -- from.
 22 MR. MICHELINI: You never heard of
 23 it. I understand that.
 24 MR. DePAOLA: And I'm not saying it
 25 didn't happen before I moved there, which is over 20

1 years.
 2 MR. MICHELINI: It may have happened
 3 by other people who are within the zip code, too --
 4 MR. DePAOLA: Yeah.
 5 MR. MICHELINI: -- right, who might
 6 have made that request.
 7 MR. DePAOLA: No, but I'm just --
 8 MR. MICHELINI: Okay. All right.
 9 Thank you.
 10 MR. FULCOMER: And it might have had
 11 nothing to do with your clubhouse.
 12 MR. MICHELINI: Excuse me.
 13 MR. FULCOMER: Just what I said.
 14 MR. GINGRICH: Well, what did you
 15 say? Repeat that.
 16 MR. FULCOMER: If I may --
 17 MR. MICHELINI: Well, he asked you to
 18 repeat what you said.
 19 MR. FULCOMER: That that might have
 20 nothing to do with any action taken place by the --
 21 MR. GINGRICH: No, I want you to
 22 repeat what you just said.
 23 MR. MICHELINI: That's what he said.
 24 MR. FULCOMER: I said that might not
 25 have nothing to do with --

1 MR. GINGRICH: But you said
2 something --
3 MR. FULCOMER: -- any position at
4 your clubhouse --
5 MR. GINGRICH: You're testifying.
6 You said something. I'd like to know what you said.
7 MR. FULCOMER: I just said it.
8 MR. MICHELINI: That's what he said.
9 MR. GINGRICH: What did you say?
10 MR. FULCOMER: That may have nothing
11 to do, the Holiday City issue which was dealt with
12 by a legislative delegation over ten years ago, may
13 have nothing to do with any action taken by your
14 clubhouse. I do know that there was some talk of
15 that. But I was -- I don't -- I don't know the --
16 whether your clubhouse took any position on it,
17 that's irrelevant. This is what was told to me in
18 the letter which has been read to you in portions.
19 And it's their analysis. I didn't do the analysis.
20 And they are the people who vote on the laws that
21 pertain to the issue before us. And in some cases,
22 have adopted the school formula by voting for it
23 under a different governor.
24 MR. MICHELINI: Thank you.
25 MR. FULCOMER: You're welcome.

1 MR. WISER: Mr. Chairman, I have just
2 one or two questions, please, sir. Mr. Fulcomer.
3 MR. MICHELINI: Sure.
4 MR. WISER: You were on the board of
5 education for four years; is that --
6 MR. FULCOMER: About four years
7 because they changed the -- I was elected in, I
8 guess, in the spring. And they changed the election
9 date, so I got some extra months as a result of
10 that.
11 MR. WISER: So, it was an elected,
12 not appointed board of education?
13 MR. FULCOMER: It's an elected board
14 of education.
15 MR. WISER: So, I guess you
16 campaigned around the whole township?
17 MR. FULCOMER: I campaigned in as
18 many parts as I could. It's very difficult to
19 campaign in the entire township over a two-month
20 period.
21 MR. WISER: The analysis that you
22 talked about that's referenced in that letter, I
23 asked you before and the conversation went off to a
24 different, different place. Do you know who did the
25 actual analysis? I understand the legislative

1 contingent requested it. Do you know of whom they
2 requested it, who did it?
3 MR. FULCOMER: No. All I know is
4 that they requested an analysis and they referenced
5 it in this letter. And I do know that they had done
6 an analysis prior to the letter, which is one of the
7 reasons why I sent the letter to them.
8 MR. WISER: So --
9 MR. FULCOMER: Because they would
10 know about it --
11 MR. WISER: -- was it --
12 MR. FULCOMER: -- more than I would.
13 MR. WISER: Do you know if it was a
14 private consultant or the --
15 MR. MICHELINI: He doesn't know. He
16 said he doesn't know.
17 MR. FULCOMER: I don't know.
18 MR. WISER: You don't know -- you
19 don't know if it was --
20 (Off the record.)
21 (Question read back.)
22 MR. WISER: So, you don't know
23 whether it was a private consultant, it was the
24 legislative district's own staff or it was the staff
25 of the department of education? You don't know at

1 all?
2 MR. FULCOMER: I don't know. But I
3 would surmise it would not be a private consultant,
4 that would cost money, for which they would probably
5 not have the budget for.
6 MR. WISER: Okay. Thank you that's
7 all.
8 FURTHER EXAMINATION BY MR. MCGUCKIN:
9 Q Mr. Fulcomer, I just have a quick
10 question. You said you had been elected. Was it
11 one time?
12 A Once.
13 Q And have you held any other positions
14 in the municipality, whether it be public service or
15 nonprofit organizations?
16 A I was the president of the Regular
17 Organization Republican Club for four to five years.
18 And I was the chairman of the planning board, also a
19 member of the planning board, too, but I was
20 chairman for at least one year.
21 Q How long were you on the board,
22 planning board?
23 A I was on the board for one term.
24 Planing board -- not the planning board, I'm sorry.
25 MR. DePAOLA: Zoning, yeah, zoning.

1 A Zoning board of adjustment. Zoning
2 board of adjustment. I don't want to get those
3 confused. Zoning board of adjustment.
4 Q So, as a resident of South Seaside
5 Park, you were able to participate in township wide
6 organizations, elected positions and appointed
7 positions?
8 A Yes, it's -- we're in Berkeley
9 Township. As long as we're in Berkeley Township, if
10 you want to participate in government, you have to
11 participate in the Berkeley Township --
12 Q Okay. Thank you.
13 A -- government.
14 MR. BACCHIONE: Through the, Chair.
15 Mr. Fulcomer, I just have one last question for you.
16 You've made the assumption that there would be more
17 state aid with less ratables?
18 MR. FULCOMER: I'm making the
19 assumption under state law, there should be.
20 MR. BACCHIONE: Okay.
21 MR. FULCOMER: You can't say for sure
22 but you'll get --
23 MR. BACCHIONE: We don't have -- we
24 don't have -- know that for a fact, just listening
25 to your testimony, that that's going to happen. So,

1 let's assume it does happen.
2 MR. FULCOMER: Pardon me?
3 MR. BACCHIONE: Have you gotten to
4 the point where you did some hard numbers?
5 Mr. McGuckin raised this issue a little earlier and
6 I wanted to go back on the record again. Do we know
7 what the numbers will be as to how much more state
8 aid Berkeley would get, assuming South Seaside Park
9 de-annexed it, as opposed to how much they would
10 lose with the ratables that they lose? Is there a
11 correlation between --
12 MR. FULCOMER: They're not going to
13 lose any state aid --
14 MR. BACCHIONE: No, no, you're
15 missing my question.
16 MR. FULCOMER: Well, I'm just taking
17 the words you're saying.
18 MR. BACCHIONE: Well, maybe I said it
19 wrong. Let me repeat it, then, before you answer.
20 Because I want you to answer it correctly.
21 Is there a correlation between the
22 money Berkeley Township loses when they lose the
23 ratables, to the income they would gain in school
24 state aid?
25 MR. FULCOMER: I don't believe so.

1 MR. BACCHIONE: But you made the
2 statement --
3 MR. FULCOMER: I know I said --
4 MR. BACCHIONE: -- that we would get
5 more money in state aid but you didn't say how much
6 more money --
7 MR. FULCOMER: You should --
8 (Off the record.)
9 MR. MICHELINI: Ms. Hill can't do her
10 job.
11 MR. BACCHIONE: Okay. You did not
12 testify as to how much more money Berkeley Township
13 would gain in the school funding as opposed to how
14 much they would lose -- Berkeley Township, that
15 is -- to the ratables they would lose to Seaside
16 Park. The hard numbers haven't been done. Am I
17 correct?
18 MR. FULCOMER: It only could be done
19 by the state.
20 MR. BACCHIONE: Okay. So, we don't
21 know if there's a benefit to what your testimony was
22 all about, a financial benefit?
23 MR. FULCOMER: Well, we know that
24 under state law, there should be a financial benefit
25 in state aid. We also know that under state law,

1 there would be no reduction in state aid based on
2 the way the law's written. And, obviously, you
3 know, they don't reduce the amount of state aid the
4 town gets when suddenly they have less ratables.
5 They're not that crazy.
6 MR. BACCHIONE: But you have to
7 include in the formula that you're proposing, the
8 money that Berkeley Township would lose in the
9 ratables that they would lose, it would lose, to
10 Seaside Park.
11 MR. FULCOMER: Well, the ratables are
12 in that report from our -- from the accountant.
13 MR. BACCHIONE: Okay. But we don't
14 have the numbers -- I'm sorry, Mr. Michelini. But
15 we don't have the numbers as to how much money
16 Berkeley Township School District would gain?
17 MR. MICHELINI: Well, I'm going to
18 just object to the question because our expert said
19 that he couldn't get that information. And we asked
20 the board to get that information. We still don't
21 have it. So, it's very hard for us to answer that
22 question when we've asked for the information. Our
23 expert asked for it from the State. He couldn't get
24 it from the State. And this board, this board or
25 some subdivision of the municipality would have the

1 ability to do that. But we haven't been able to get
2 it.

3 MR. MCGUCKIN: Let's be clear about
4 something. The town would never be able to get
5 that.

6 MR. MICHELINI: Well --

7 MR. MCGUCKIN: I thought I put this
8 before on the record. The town today doesn't know
9 what state aid they're going to get for this year.
10 There's no way they're going to be able to get a
11 calculation from the State as to what they would get
12 in the future. That's just never going to happen.

13 MR. MICHELINI: Well, then the
14 question is calling for a spec --

15 MR. MCGUCKIN: You can ask Trenton.
16 You can ask whoever you want. The State is never
17 going to give that information.

18 MR. MICHELINI: Well, then --

19 MR. MCGUCKIN: Because there's no way
20 for them to know what it would be.

21 MR. DePAOLA: All right. Go ahead,
22 John. I'm sorry.

23 MR. BACCHIONE: So, then, in
24 conclusion, we don't know if there is a benefit to
25 gaining state aid, state school state aid, and

1 losing the ratables. Because we don't have the
2 numbers. And we may never have the numbers until it
3 happens.

4 MR. FULCOMER: That is correct.

5 MR. BACCHIONE: Okay. Thank you.

6 MR. FULCOMER: I would just point
7 out, though, the state aid that the Berkeley
8 Township Board of Education gets this year, this
9 fiscal year, is attached to the back of this letter,
10 so that is known. We know what we get now. We
11 don't know for sure what you're going to get in the
12 future. But it's -- the back of the letter you can
13 see the state aid.

14 MR. MCGUCKIN: But you don't know
15 what the state aid is until the state budget is
16 done. The state budget is not going to be done
17 until June 30.

18 MR. FULCOMER: For this year.

19 MR. MCGUCKIN: Exactly.

20 MR. FULCOMER: But for this year, do
21 we have that information?

22 MR. MCGUCKIN: Last year.

23 MR. FULCOMER: It's attached to the
24 back of your letter.

25 MR. MCGUCKIN: It's for last year.

1 But I understand what you're saying.

2 MR. FULCOMER: Well, this is the
3 current year. This is the current fiscal year.
4 You're talking about the next fiscal year.

5 MR. MCGUCKIN: July 1st.

6 MR. FULCOMER: That's different.

7 MR. MCGUCKIN: That's correct.

8 MR. FULCOMER: All right.

9 MR. MICHELINI: Mr. Fulcomer, by the
10 same token, you can't assume that you wouldn't get
11 state aid. For all you know, you could get more
12 state aid as a result of de-annexation. Is that
13 possible?

14 MR. FULCOMER: It's possible.

15 MR. MICHELINI: Thank you.

16 MR. DePAOLA: Okay. I have just one
17 more question. Seaside, Seaside Park, as we know --
18 and we've been fight -- they've been fighting it for
19 years. Tried to secede from Central Regional. And
20 the reason, the big reason was that they were paying
21 much more taxes to the school district than the
22 people from Central Regional was paying.

23 All I'm asking, I just want a yes or
24 no answer, if they do secede, would they pay the
25 Seaside Park taxes to Central Regional or would they

1 still pay the Berkeley Township taxes to Central
2 Regional? I mean, it's a yes or no answer.

3 MR. FULCOMER: Well, that's not a yes
4 or no question. I mean --

5 MR. DePAOLA: Well, I just want to
6 know, are they going to pay the same?

7 MR. FULCOMER: Let me just point this
8 out.

9 MR. DePAOLA: Wait a minute.

10 MR. FULCOMER: May I respond to your
11 question?

12 MR. DePAOLA: Okay. Well, you can't
13 answer. All I'm asking you, are they going -- go
14 ahead.

15 MR. MICHELINI: I think if you had
16 that, asked that question, you would have been
17 asking, should have asked that question of our
18 financial expert who went over the numbers.

19 MR. DePAOLA: Well, he wouldn't know.

20 MR. MICHELINI: Well --

21 MR. DePAOLA: You, but you're
22 offering school aid. We weren't -- I wasn't even
23 going to go to school aid. Since you put the
24 witness on about school aid, and it's --

25 MR. MICHELINI: He testified --

1 excuse me --
 2 MR. DePAOLA: It's not that complex
 3 as you think. Seaside Park wants to secede from
 4 Central Regional because they pay way more than
 5 the -- and that was their complaint. I went to
 6 plenty of those meetings, please, because I was
 7 president of the school board at that time. That's
 8 neither here nor there. But, again -- again, I'm
 9 just putting that out there. That's all.
 10 Now, if you can tell me that you're
 11 going to still pay the taxes that Berkeley pays
 12 Central Regional, not Seaside Park, okay.
 13 MR. FULCOMER: Let me respond to your
 14 question.
 15 MR. DePAOLA: Sure.
 16 MR. FULCOMER: It was pointed out by
 17 our accountant, you weren't here, but it was pointed
 18 out by our accountant, which is the case, is that
 19 South Seaside Park and Seaside Park pay taxes. If
 20 we became part of Seaside Park, we would still pay
 21 taxes to Central Regional, as long as Seaside Park
 22 is part of the Central Regional District.
 23 Now, there is no basis of law for
 24 Seaside Park to be able to get out of Central
 25 Regional School District.

1 MR. DePAOLA: Sure.
 2 MR. FULCOMER: And they certainly
 3 have tried hard enough. And a lot of attorneys have
 4 made a fortune out of their efforts. But there's no
 5 basis of law for them to be able to do that. So,
 6 based on the law, as it presently exists, they
 7 will -- we will continue to pay taxes through the
 8 municipality to Central Regional. And, unless, of
 9 course, your attorney, who's an assemblyman, changes
 10 the law --
 11 MR. DePAOLA: Well -- well, I
 12 think --
 13 MR. FULCOMER: -- to benefit Seaside
 14 Park, which I doubt will happen.
 15 MR. DePAOLA: And, in fact, Seaside
 16 Height, Seaside Park, has been fighting this for
 17 years and years and years and years, so, and it's
 18 never -- it's -- that's the State. That's nothing
 19 to do with us. But I was just wondering, since
 20 we're talking about school aid, I just don't want
 21 the people to think they're going to go to, you
 22 know -- I mean, the taxes are going to be reduced,
 23 as far as school aid is concerned. Because I think
 24 they're going to pay the same as Seaside Park is
 25 paying. That was my -- unless you can tell me

1 some --
 2 MR. FULCOMER: Yeah, we're going to
 3 pay -- we're going pay the same amount as Central
 4 Regional through our municipality, yes.
 5 MR. DePAOLA: Okay. Thank you.
 6 MR. FULCOMER: Still stay part of the
 7 Central Regional School District.
 8 MR. GINGRICH: Through the Chair.
 9 MR. DePAOLA: Go ahead.
 10 MR. GINGRICH: One question. While
 11 you were on the Board of Ed., you weren't on the
 12 finance committee, were you?
 13 MR. FULCOMER: No, I was on the
 14 special committee --
 15 MR. GINGRICH: Thank you. Thank you.
 16 That's all.
 17 MR. FULCOMER: It's a special
 18 committee on --
 19 MR. GINGRICH: Okay.
 20 MR. FULCOMER: -- state aid.
 21 MR. GINGRICH: Okay.
 22 MR. MICHELINI: What did that special
 23 committee on state --
 24 MR. FULCOMER: Well, actually,
 25 technically, I was a member. Because as president

1 of the board --
 2 MR. GINGRICH: I'm not asking about
 3 technically.
 4 MR. FULCOMER: As an ex officio
 5 member, as president, I was a member of the finance
 6 committee.
 7 MR. GINGRICH: But you had nothing to
 8 do with the finance committee. That was not part --
 9 you were not on the finance committee.
 10 MR. FULCOMER: Not --
 11 MR. GINGRICH: You said no.
 12 MR. FULCOMER: No.
 13 MR. GINGRICH: I don't want to
 14 hear --
 15 MR. FULCOMER: Let me --
 16 MR. GINGRICH: The answer is yes or
 17 no.
 18 (Off the record.)
 19 MR. MICHELINI: Mr. Gingrich, he can
 20 explain --
 21 MR. GINGRICH: No, it's a yes or no
 22 question. Were you on the finance committee or not?
 23 MR. MICHELINI: And he said yes. And
 24 he said, technically, yes.
 25 MR. GINGRICH: No, first he said no.

1 MR. MICHELINI: Yeah, and then he
 2 said but, technically, he --
 3 MR. GINGRICH: But technically. I
 4 don't want technically. I want a yes or a no. And
 5 he said no.
 6 MR. MICHELINI: And that's --
 7 MR. GINGRICH: Thank you very much.
 8 I'm finished with that.
 9 MR. FULCOMER: President of the board
 10 of education is ex officio member of all committees.
 11 MR. GINGRICH: Of all committees.
 12 But you did nothing on that committee. That's all.
 13 Thank you.
 14 MR. MICHELINI: He didn't answer the
 15 question. Do you want him to answer the question?
 16 MR. GINGRICH: I asked a yes or no
 17 question. I got the answer. It was no.
 18 MR. MICHELINI: Well, you said,
 19 that's all, before he answered the question. Would
 20 you like an answer?
 21 MR. GINGRICH: That was a yes or no
 22 question, sir. Why can't anybody understand? Why
 23 can't anybody understand yes or no?
 24 MR. MICHELINI: At this point, I'm
 25 going to put an objection on the record. You are

1 harassing the witness. I just want it noted on the
 2 record.
 3 MR. GINGRICH: I'm not harassing
 4 anybody. I asked for a yes or no question.
 5 MR. MICHELINI: You're not allowing
 6 him to explain his answer.
 7 MR. GINGRICH: I didn't want an
 8 explanation. I asked a yes or no question.
 9 MR. MICHELINI: I understand that you
 10 don't --
 11 MR. GINGRICH: I'm not allowed to do
 12 that? Am I allowed to ask a yes or no question?
 13 MR. DePAOLA: All right.
 14 MR. MICHELINI: Why don't we move to
 15 the next witness. I suggest that we do that.
 16 MR. DePAOLA: Sure. But
 17 Mr. Michelini, I just want you to know, if I may,
 18 and all due respect to you, you brought the witness
 19 up, and we have the right to ask him questions.
 20 MR. MICHELINI: Absolutely,
 21 Mr. DePaola.
 22 MR. DePAOLA: So, I don't really
 23 think he was harassed.
 24 MR. MICHELINI: My objection is not
 25 that you asked, that Mr. Gingrich asked a question.

1 MR. DePAOLA: And --
 2 MR. MICHELINI: My objection -- can I
 3 finish? Can I finish please?
 4 MR. DePAOLA: -- if he was
 5 harassed -- sure. Go ahead.
 6 MR. MICHELINI: My objection is that
 7 he began to answer the question. And then he
 8 thought about it for a minute and wanted to mention
 9 that he was an ex officio member and, therefore, he
 10 was part of the committee. And Mr. Gingrich would
 11 not allow him to do that and kept interrupting him.
 12 And that's the point that I was objecting. I'm not
 13 objecting to the board asking questions.
 14 Absolutely, they have that right.
 15 MR. DePAOLA: I understand.
 16 MR. MICHELINI: But I was objecting
 17 to the nature of the questioning, and putting that
 18 on the record.
 19 MR. DePAOLA: I understand that. But
 20 I think Mr. Gingrich --
 21 MR. GINGRICH: Can I talk for myself?
 22 MR. DePAOLA: I think Mr. -- no. You
 23 can in a minute. I think, I think that Mr. Gingrich
 24 knows that he's ex officio. But that wasn't the
 25 question he was asking.

1 MR. MICHELINI: I don't know what he
 2 knows and what he doesn't know. But the witness
 3 certainly is entitled to provide a full and
 4 responsive answer.
 5 MR. DePAOLA: Well, he did.
 6 MR. MICHELINI: Eventually.
 7 MR. DePAOLA: All right, Brian. Go
 8 ahead.
 9 MR. GINGRICH: Let it go.
 10 MR. DePAOLA: All right. Do you want
 11 to bring your next witness, please.
 12 MR. MICHELINI: Sure.
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1 ELAINE VITURELLO, having been duly sworn, according
 2 to law, upon her oath, testified as follows:
 3 EXAMINATION BY MR. MICHELINI:
 4 Q Elaine, Ms. Vitarello, where do you
 5 reside?
 6 A I reside at 217 Beach Drive, South
 7 Seaside Park, Berkeley Township.
 8 Q How long have you lived there?
 9 A Fifteen years.
 10 Q And have you lived there with anybody
 11 during that time frame?
 12 A My husband, Frank.
 13 Q Does he still live there or no?
 14 A No, he's deceased.
 15 Q When did he die?
 16 A August 5, 2009.
 17 Q And did you sign the petition for
 18 de-annexation?
 19 A Yes, I did.
 20 Q And I understand you have a personal
 21 reason as to why you signed that petition; is that
 22 right?
 23 A I certainly do.
 24 Q Why don't you tell this board why you
 25 did that.

1 A On that date, my husband, 64 years
 2 old, collapsed on the living room floor unconscious.
 3 I dialed 911. And as soon as the dispatcher
 4 answered the phone, he said to me, oh, you've
 5 reached Seaside Park. You're part of Berkeley
 6 Township. So, Berkeley Township has to answer this
 7 call.
 8 Well, of course, I was -- I was just in a
 9 panic state. They connected me with Berkeley
 10 Township. I hung up. And I watched that clock. I
 11 watched it every second. Twenty minutes went by
 12 before that police officer reached my home. My
 13 husband did not stand a chance of being revived.
 14 And Tri-Borough, they came 15 minutes after the
 15 police officer arrived to pronounce him dead.
 16 Now, if I was part of South Seaside --
 17 Seaside Park, they could have gotten to me within
 18 two to three minutes. They are so close to the
 19 police station. It was tragic. Because they -- one
 20 car on the island, one car on the island. How do
 21 you have one car on the island when, if there's two
 22 calls coming in. He couldn't get to me for 20
 23 minutes. It was tragic.
 24 MR. DePAOLA: I'm sorry. But for the
 25 record, Tri-Borough is part of Seaside Park; is that

1 correct?
 2 MS. VITURELLO: I'm not certain about
 3 it.
 4 MR. DePAOLA: I think so.
 5 MS. VITURELLO: Why wouldn't they
 6 send -- why wouldn't Berkeley Township tell them to
 7 get to my home first. Because they couldn't get to
 8 me in time if they were on another call. Perhaps if
 9 they reached me, he would have been alive.
 10 BY MR. MICHELINI:
 11 Q How far are you from the police
 12 department in Seaside Park?
 13 A Oh, about three minutes, if that.
 14 Q And that happened in 2009. Did you
 15 have any other experiences that were similar to that
 16 experience?
 17 A Yes, I did. My elderly mother fell
 18 in front of my home.
 19 Q When was that?
 20 A That was last year.
 21 Q Okay.
 22 A And the same thing repeated itself.
 23 Fifteen, 20 minutes, she was on the ground on the
 24 sidewalk. I had to put a blanket on her and a
 25 pillow under her head before they got to my house.

1 Q Who got to your house? Who did you
 2 call? Did you call 911?
 3 A I called 911. And they connected me
 4 with Berkeley and the Berkeley Township police came.
 5 But it was the same amount of time. This is
 6 ridiculous.
 7 MR. WISER: Ma'am, do you know who
 8 runs the 911?
 9 MS. VITURELLO: I have no idea.
 10 MR. DePAOLA: Excuse me. If I may,
 11 Mr. Michelini, please. Because this is tragic. And
 12 I certainly understand where she's coming from.
 13 This happened in 2009?
 14 MS. VITURELLO: Yes.
 15 MR. MICHELINI: The first incident.
 16 MS. VITURELLO: My husband's death.
 17 MR. DePAOLA: That's what I meant.
 18 MS. VITURELLO: 2009.
 19 MR. DePAOLA: But correct me if I'm
 20 wrong, and I don't know if anybody's here to answer
 21 that, but I think since the new mayor came in that
 22 that's been changed. I thought -- I think that
 23 Seaside Park answers those calls now, but I'm not
 24 100 percent sure.
 25 MS. VITURELLO: I'm not aware. But I

1 know what happened.
 2 MR. DePAOLA: But I know, I know in
 3 2009 when this happened, that tragedy happened, I
 4 don't know. I guess Berkeley would have answered
 5 those calls. And that I didn't know. But I know --
 6 and I'm not 100 percent sure -- but I think now
 7 Seaside Park answers those calls.
 8 MS. VITURELLO: That's wonderful now,
 9 but --
 10 MR. DePAOLA: Yeah, I understand. I
 11 understand.
 12 BY MR. MICHELINI
 13 Q Last year what happened?
 14 A Last year, the same thing happened.
 15 My mom, my elderly mother, fell in front of my home.
 16 And it was a good 20 minutes before they came.
 17 Q And that was Berkeley again?
 18 A It was Berkeley again.
 19 Q What time of year was that, do you
 20 recall?
 21 A Well, it was probably in the fall.
 22 Q So, that would have been the fall of
 23 2015?
 24 A Uh-hum.
 25 Q So, if there's been a change, it's

1 been a very recent change, as far as you know, in
 2 your experience?
 3 A Nothing's changed from my
 4 perspective.
 5 Q Did you happen to -- are you part of
 6 the Italian Club?
 7 A Yes, I am.
 8 Q Is that the Italian-American Club?
 9 A Yes, I am.
 10 Q Where does that meet?
 11 A It meets in Silver Ridge, I believe,
 12 in Holiday City, Silver Ridge Clubhouse.
 13 Q Did you happen to attend a meeting
 14 there last summer?
 15 A Yes, I did.
 16 Q Can you tell us what happened last
 17 summer?
 18 A Well, after the meeting was
 19 adjourned, Councilman Bacchione got up and he
 20 addressed all the senior citizens there and told
 21 them, you know, start going to the meetings, because
 22 if South Seaside Park becomes Seaside Park, your
 23 taxes are going to go up.
 24 Q So, was he indicating in your -- how
 25 did that make you feel?

1 A I felt horrible.
 2 Q Why?
 3 A Like he was taking sides without
 4 hearing the whole picture from the people that live
 5 there.
 6 Q And that was last summer?
 7 A That was, yeah -- well, it might have
 8 been in spring or early summer. You know, I'm not
 9 sure.
 10 Q But, certainly, during the pendency
 11 and before many of these hearings had happened?
 12 A Right.
 13 Q And did you feel that he had
 14 pre-judged the matter? Is that why you were --
 15 A Well, I certainly do.
 16 MR. MICHELINI: Well, with all due
 17 respect to Mr. Bacchione, based on that testimony, I
 18 would ask that he not participate in these
 19 proceedings. And I trust that those statements made
 20 by him were not -- while they reflect a
 21 pre-judgment, I don't attribute any malice toward
 22 him in doing that. And I attribute it as a mistake
 23 on his behalf. But, unless he's going to deny that,
 24 I would ask that he step down from these
 25 proceedings.

1 MR. MCGUCKIN: Well, I think, Mr.
 2 Michelini, you certainly could have sent me a letter
 3 before the hearing tonight. So, if that was the
 4 case, we wouldn't have had to go through this
 5 evening's testimony with him here if, in fact,
 6 that's what is true. But, second of all, is there
 7 any doubt that if South Seaside Park is de-annexed
 8 to Seaside Park, that the taxes for Berkeley
 9 Township residents will go up?
 10 MR. MICHELINI: A, there is some
 11 doubt based upon how many officers may be
 12 eliminated, according to the testimony of Mr. Moore.
 13 Secondly, the real point of it is
 14 that it's clear from the client's perspective, and
 15 by the statements that are made, that he had
 16 pre-judged the matter. And if he hadn't pre-judged
 17 the matter, he at least had given the appearance of
 18 impropriety and pre-judgment in the matter.
 19 MR. MCGUCKIN: And exactly how did he
 20 do that? By saying that if South Seaside Park was
 21 de-annexed to Seaside Park, that taxes would go up
 22 on the mainland?
 23 MR. MICHELINI: That he was
 24 encouraging people to show up to oppose these
 25 proceedings.

1 MR. MCGUCKIN: Well, that's not what
 2 she -- she didn't say anything about they showed up
 3 to oppose it.
 4 MR. MICHELINI: He --
 5 MR. MCGUCKIN: She testified -- let
 6 me finish. She just testified that he said to show
 7 up at the meetings because this was being discussed
 8 and that it could happen and their taxes could go
 9 up.
 10 MR. MICHELINI: No, not that it could
 11 happen.
 12 MS. VITURELLO: If it happened, their
 13 taxes would go up.
 14 MR. MCGUCKIN: If it happened, that
 15 their taxes would go up?
 16 MS. VITURELLO: Yeah.
 17 MR. MCGUCKIN: And she didn't testify
 18 that he said, to show up and oppose it. He said to
 19 show up because your taxes could go up.
 20 MS. VITURELLO: Well, that -- he said
 21 to show up at the meetings. So what does that mean?
 22 MR. MICHELINI: What did you -- what
 23 did you think it meant?
 24 MS. VITURELLO: I thought it meant he
 25 was scaring them, that their taxes are going to go

1 up, to fight what we're doing.
 2 MR. MICHELINI: Thank you.
 3 MR. MCGUCKIN: All right.
 4 Mr. Michelini, if you would, I'd ask
 5 you to send a letter outlining your reasons for that
 6 request. Then I'll review it and we'll discuss that
 7 with Mr. Bacchione and we'll --
 8 MR. MICHELINI: Sure. And with all
 9 due respect to Mr. Bacchione, I think he is a fine
 10 gentleman. But I think that was not the right thing
 11 to do at that point for a board member and also a
 12 council member who would ultimately be voting on the
 13 decision in this matter.
 14 MR. MCGUCKIN: And, again, I think in
 15 the fall of 2015, if that was the case, and you had
 16 a signatory as one of your clients that had that
 17 issue, perhaps we could have avoided four or five
 18 months --
 19 MR. MICHELINI: I just met this
 20 witness recently. She was in Florida. And we met,
 21 what, two weeks ago.
 22 MS. VITURELLO: Two weeks ago.
 23 MR. MICHELINI: Thank you.
 24 MR. MCGUCKIN: Fair enough.
 25 MR. MICHELINI: Unless there's other

1 questions.
 2 MR. MCGUCKIN: I'm sorry. I do. If
 3 I could. I just want to get the date.
 4 EXAMINATION BY MR. MCGUCKIN:
 5 Q I'm sorry, ma'am, you said August of
 6 '09? I'm sorry.
 7 A August 5.
 8 Q August 5. Thank you. And you don't
 9 know the date of your mom's fall? You don't recall?
 10 A No, I don't. I don't know the exact
 11 date.
 12 Q And who responded from Berkeley in
 13 that instance?
 14 A I have -- I have no idea.
 15 Q Was it a police officer?
 16 A A police officer.
 17 Q Okay. Thank you.
 18 A I don't know his name.
 19 MR. MCGUCKIN: Thank you.
 20 MR. MICHELINI: I'm going to call
 21 Mr. Whiteman back, but only to testify about police
 22 counts that he's been doing since the last testimony
 23 that he gave. So, it's new testimony of relevant
 24 information.
 25 MR. DePAOLA: You want to --

1 witnesses. We only have five more minutes. Do you
 2 want to -- do you want to hold it over or is it
 3 going to be five minutes?
 4 MR. MICHELINI: Why don't I get in a
 5 witness that's going to take five minutes, because
 6 Mr. Whiteman is going to take longer than that.
 7 MR. DePAOLA: Sure.
 8 MR. MICHELINI: So, I'll bring in
 9 some other witness to testify.
 10 MR. DePAOLA: Thank you,
 11 Mr. Michelini.
 12 MR. MICHELINI: You're welcome.
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1 ROBERT NORA, having been duly sworn, according to
 2 law, upon his oath, testified as follows:
 3 EXAMINATION BY MR. MICHELINI:
 4 Q Mr. Nora, where do you reside?
 5 A 201 Midway Avenue, South Seaside
 6 Park.
 7 Q How long have you lived there?
 8 A Full-time, 15 years.
 9 Q And part-time?
 10 A We bought the house in '87 and we
 11 moved in in 2000.
 12 Q As a full-time?
 13 A Full-time.
 14 Q So, you used it from '87 to 2000
 15 part-time, correct?
 16 A That's correct.
 17 Q You and your wife?
 18 A Yes.
 19 Q And your wife, Arlene, is that your
 20 wife?
 21 A That's correct.
 22 Q And she's here with you tonight,
 23 correct?
 24 A Yes, she is.
 25 Q And you and she are both petition

1 signers, correct?
 2 A Yes, we are.
 3 Q And I think you're the official sign
 4 maker for the South Seaside Park Homeowners' and
 5 Voters' Association; is that correct?
 6 A Yes, I am.
 7 Q Okay. I'm going to -- is this a sign
 8 that you make for the members of the South Seaside
 9 Park Homeowners' and Voters' Association? Is that
 10 representative of the sign?
 11 A Yes.
 12 Q Did you make this sign?
 13 A Yes, I did.
 14 Q How many of these have you made?
 15 A Close to 450.
 16 Q How does someone get a sign?
 17 A If you're a member and you pay the
 18 dues.
 19 Q And you get a sign?
 20 A If you want to have one displayed on
 21 your yard, yes.
 22 Q And they are displayed all over South
 23 Seaside Park --
 24 A Yes.
 25 Q -- probably hundreds of them, based

1 upon the number that you made, correct?
 2 A Yes, there are.
 3 MR. MICHELINI: Can we have this
 4 marked.
 5 (The Sign was marked as A-57 for
 6 identification.)
 7 MR. MICHELINI: All right. So, I'm
 8 going show you some photographs which we'll have
 9 marked. Why don't we get these marked ahead of time
 10 and I'll ask you about those and that will conclude
 11 his testimony.
 12 Three photographs on a single board.
 13 (The Three photographs on a single
 14 board was marked as A-58 for identification.)
 15 BY MR. MICHELINI:
 16 Q Showing you A-58, can you just
 17 describe it. I know the board's not going to be
 18 able to see this well until we give it up to them.
 19 So, you can describe it and then I will ask you a
 20 few questions. And then we'll give it to the board.
 21 There's three photographs. Do these
 22 photographs accurately depict the condition in South
 23 Seaside Park today?
 24 A Yes, they do.
 25 Q Okay. So, taking us to the top left

1 photograph, there is a picture of a sign that you've
 2 made, correct?
 3 A That's correct.
 4 Q And there appears to be red lines
 5 through the sign, painted through the sign; is that
 6 correct?
 7 A That's correct.
 8 Q And did you paint that red line
 9 through the sign?
 10 A No, I didn't.
 11 Q What do you take that to mean, that
 12 somebody -- the red line through the sign?
 13 A Well, I guess, I would assume it's
 14 somebody that's against leaving the de-annexing
 15 from --
 16 Q Somebody against --
 17 A -- Berkeley.
 18 Q -- the effort of de-annexation?
 19 A Yes.
 20 Q So, kind of like the no smoking sign
 21 with the red line through it?
 22 A That's correct.
 23 Q And that sign is also shown in the
 24 picture on the top right and the picture on the
 25 bottom, correct?

1 A That's correct.
 2 Q Okay. Now, looking at the picture on
 3 the top right, the sign would appear to be in the
 4 middle of two properties or somewhere on a property
 5 line?
 6 A Right.
 7 Q Would that be accurate?
 8 A That's accurate, yes.
 9 Q And whose house is to the right as
 10 you look to the picture, the top right?
 11 A Mr. Budish.
 12 Q How do you spell that, if you know?
 13 MR. BUDISH: B-u-d-i-s-h.
 14 MR. NORA: Thank you, John.
 15 BY MR. MICHELINI:
 16 Q That's Mr. Budish, right?
 17 A Yes.
 18 Q Sitting in the top row, the front row
 19 over there.
 20 And to the left, from the left property on
 21 this picture on the top right of A-58, whose
 22 property is that?
 23 A Mr. Callahan.
 24 Q And that's Mr. Callahan, who's
 25 sitting on the board right now, correct?

1 A That's correct.
 2 Q And the sign is situated on an angle
 3 so that if you're looking at Mr. Callahan's house,
 4 you're facing the sign directly; is that correct?
 5 A The sign is -- the sign is facing
 6 away from his house.
 7 Q Right. So, if you're looking at the
 8 sign, if you're straight onto the sign looking,
 9 whose house are you going to see in the background?
 10 A Mr. Callahan.
 11 Q Okay. So, do you know whether it's
 12 Mr. Callahan's sign or Mr. Budish's sign?
 13 A No.
 14 Q You tried to find that out but you
 15 couldn't find that out; is that correct?
 16 A No, I assumed that it was -- I
 17 assumed, by the way the sign is facing, I would
 18 assume that it was Mr. Callahan's, but --
 19 Q But you don't know for sure?
 20 A I don't know. Because you don't know
 21 where the property lines are.
 22 Q Okay. And if I could have marked
 23 A-52 -- or, I'm sorry, A-59 is a close-up of the
 24 sign; is that correct?
 25 A That's correct.

1 (The Eight-by-ten photo of sign was
 2 marked as A-59 for identification.)
 3 MR. MICHELINI: And then A-60,
 4 another eight-by-ten photo.
 5 (The Eight-by-ten photo was marked as
 6 A-60 for identification.)
 7 Q A-60 is another eight-by-ten photo.
 8 And it shows the sign?
 9 A Yes, it does.
 10 Q Okay. And there's a mailbox that
 11 says 121. Is that Mr. Budish's house?
 12 A Yes.
 13 Q And then -- but the sign, as
 14 you're -- where was this taken? Standing on the
 15 street?
 16 A Yes.
 17 Q Okay. And this accurately depicts --
 18 all these signs accurately, or pictures, accurately
 19 depict the way it is today, correct?
 20 A That's correct.
 21 Q What street is this?
 22 MR. BUDISH: Anchor Drive.
 23 Q Is it Anchor Drive?
 24 A That's correct.
 25 Q In South Seaside Park, correct?

1 A Yes.
 2 Q And the sign is clearly visible in
 3 the upper left-hand portion of the picture, right?
 4 A In the background, yes.
 5 Q And this is facing the sign, correct?
 6 A That's correct.
 7 Q And as one faces the sign, whose
 8 house does one see in the background?
 9 A Mr. Callahan's.
 10 Q Okay. So that, again, would lead you
 11 to conclude that it was Mr. Callahan's sign, even if
 12 it isn't his sign, correct?
 13 A One would assume that, could assume
 14 that.
 15 Q Did you assume that?
 16 A Yes.
 17 Q Okay. Would you assume that, based
 18 on that sign, given where it's positioned and how
 19 it's facing, that Mr. Callahan is against -- whether
 20 or not he is -- that based upon how that sign is,
 21 that he's against the de-annexation effort?
 22 A With the red line, I would assume so.
 23 Q Thank you very much, Mr. Nora.
 24 And you don't know that for a fact, correct?
 25 A No.

1 MR. MICHELINI: Okay right. Thank
 2 you.
 3 Any questions?
 4 EXAMINATION BY MR. MCGUCKIN:
 5 Q Do you know who put the sign up?
 6 A I have no idea.
 7 Q Do you know who put the red mark on
 8 it?
 9 A I have no idea.
 10 Q There's other signs you mentioned.
 11 There was another sign with this red mark?
 12 MR. MICHELINI: They're all the same
 13 sign, Mr. McGuckin.
 14 Q They're all the same sign?
 15 A Yes.
 16 MR. MICHELINI: Yes. Just to shorten
 17 it.
 18 Q And you don't know who put it there
 19 or who did it?
 20 A No, I don't.
 21 Q And you don't even know whose
 22 property it's on?
 23 A No, can't assume that.
 24 Q When did it go up?
 25 A It's been there quite a while.

1 Q With the same red mark?
 2 A Yes.
 3 MR. MCGUCKIN: Okay. Thank you.
 4 MR. DePAOLA: Okay.
 5 MR. MICHELINI: Based upon how the
 6 sign faces, I would ask the board to ask
 7 Mr. Callahan if it's his sign. And if it's not his
 8 sign, I would still ask that he be recused based
 9 upon the obvious effect of having the sign face as
 10 if, when you're reading it straight on, the house
 11 behind it is Mr. Callahan's, so, it gives --
 12 MR. MCGUCKIN: Mr. Michelini, you're
 13 making an allegation. I think you need to put it in
 14 writing. Send us a letter and we'll deal with it
 15 that way.
 16 MR. MICHELINI: I certainly will.
 17 MR. MCGUCKIN: Thank you.
 18 MR. MICHELINI: Any other questions?
 19 That's it. Thank you.
 20 MR. DePAOLA: I mean, my only
 21 objection is, you're assuming that Mr. Callahan and
 22 I think that that --
 23 MR. MICHELINI: We can ask
 24 Mr. Callahan now.
 25 MR. DePAOLA: No, I wouldn't do that.

1 I wouldn't do that. Send a letter as our attorney
 2 told you, and then we'll take it from there, all
 3 right? How's that?
 4 MR. MICHELINI: That's fine.
 5 MR. DePAOLA: But why you would ever
 6 bring in to accuse somebody when you don't really
 7 know is mind boggling.
 8 MR. MICHELINI: Based upon --
 9 MR. DePAOLA: I've been around a long
 10 time.
 11 MR. MICHELINI: Based upon the way
 12 the sign faces --
 13 MR. DePAOLA: All right.
 14 MR. MICHELINI: -- it clearly looks
 15 as if it's Mr. Callahan's. Whether it is or it's
 16 not --
 17 MR. DePAOLA: Listen I know --
 18 MR. MICHELINI: Excuse me. Whether
 19 it is or it's not, it gives that impression.
 20 MR. DePAOLA: I --
 21 MR. MICHELINI: And it's
 22 inappropriate for a board member who's supposed to
 23 be hearing testimony and to be sitting on this
 24 board, in all due respect to Mr. Callahan. I know
 25 he's a pretty nice guy from my clients, some of my

1 clients have a relationship with him, but it's
 2 inappropriate in this proceeding. And, again, it
 3 shows the pre-judgment and it shows bad judgment, if
 4 not anything else.
 5 MR. DePAOLA: I just wanted to --
 6 MR. MICHELINI: That's my opinion.
 7 MR. DePAOLA: I just want you to
 8 know, Mr. Michelini, that to accuse somebody when
 9 you don't really know, that's not the way I was
 10 brought up. So, I mean, you can do whatever you
 11 want. That's fine. And the gentleman who did it
 12 also, I'm not very happy about that. You accuse
 13 somebody, and you don't know.
 14 MR. MICHELINI: I did not accuse
 15 Mr. Callahan of putting the sign up. What I said
 16 is, it certainly gives the appearance as his sign.
 17 And it's inappropriate. Whether it is or it isn't,
 18 I made very clear and Mr. Nora made clear, we don't
 19 know.
 20 MR. DePAOLA: As the Chairman, I just
 21 felt I had to tell you. You can do whatever you
 22 want. That's fine.
 23 MR. MICHELINI: Thank you.
 24 MR. DePAOLA: But I --
 25 MR. MICHELINI: Thank you,

1 Mr. Chairman. Have a good night.
 2 MR. GINGRICH: Through the Chair, I
 3 got a question.
 4 MR. DePAOLA: Yes.
 5 MR. GINGRICH: One question through
 6 the Chair.
 7 MR. MICHELINI: Who's the question
 8 of?
 9 MR. GINGRICH: It's to you. Tonight
 10 you tried to recuse two people on the board. Are
 11 you going to go through and try to get the whole
 12 board by the time --
 13 MR. MICHELINI: Only, only if I have
 14 cause. But, at this point, I do not have cause,
 15 Mr. Gingrich.
 16 MR. GINGRICH: Okay. Thank you.
 17 MR. MICHELINI: But if I believe I
 18 have cause, and if I did have cause, I would go
 19 through the whole board. But I don't believe I have
 20 cause. And I believe that there's several of
 21 these -- I'm not even saying these board members
 22 acted intentionally or maliciously. But I think the
 23 judgment is not appropriate for this board, which is
 24 supposed to be independent and is supposed to be
 25 above, you know, showing their hand or pre-judging

1 the matter in any way whatsoever so that they can
 2 make a fair report to the governing body. They
 3 should not be doing things that I believe reveal a
 4 prejudice or a bias or a pre-judgment. And I'm
 5 objecting to that. Because, as I made throughout
 6 these proceedings, made those same kinds of
 7 objections, that it feels like we're being
 8 pre-judged.
 9 Now, if the board -- if Mr. Callahan
 10 wants to address the situation, that's fine. I will
 11 put it in writing. Thank you.
 12 MR. CALLAHAN: May I ask a question,
 13 sir?
 14 MR. DePAOLA: Thank you.
 15 MR. CALLAHAN: You are judging that I
 16 am contrary to the secession from Berkeley Township?
 17 MR. MICHELINI: I'm judging that the
 18 sign would give the impression that you are contrary
 19 to outsiders. Whether or not it's your sign or not,
 20 the way that it's positioned virtually on the
 21 property line, with your house in the background
 22 when you face the sign, would give the impression
 23 that you are against the de-annexation effort. And
 24 I believe it's not a good thing to have -- for a
 25 board member to have a sign like that, virtually on

1 his property line, giving that impression, whether
 2 or not it's your sign or your neighbor's sign.
 3 MR. CALLAHAN: All right. I'm going
 4 to ask another question, then. If you're not a
 5 member of the secession group, does that mean you're
 6 against it?
 7 MR. MICHELINI: I just want -- for
 8 the record, Mr. Budish is talking to Mr. Gingrich
 9 off to the side. I don't know what that --
 10 MR. McGUICKIN: Mr. Gingrich, we got a
 11 hearing still going on.
 12 MR. GINGRICH: I'm sorry. I'm sorry.
 13 I'm sorry.
 14 MR. MICHELINI: Excuse me,
 15 Mr. Callahan. I apologize. But could you repeat
 16 your question?
 17 MR. CALLAHAN: I just asked you, if a
 18 resident of South Seaside Park does not join the
 19 secessionist movement, pay dues, does that mean he's
 20 against it?
 21 MR. MICHELINI: If they don't pay,
 22 no, it doesn't mean that at all. They could be for
 23 it or they could be against it. Either way, we
 24 don't know.
 25 MR. CALLAHAN: Okay. Nothing

1 further.
 2 MR. DePAOLA: Okay.
 3 MR. MICHELINI: Thank you.
 4 MR. DePAOLA: Thank you.
 5 (Matter concluded.)
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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, 2021

Dated: May 27, 2016

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