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TOWNSHIP OF BERKELEY
PLANNING BOARD

IN THE MATTER OF:

SOUTH SEASIDE PARK HOMEOWNERS
AND VOTERS ASSOCIATION
DE-ANNEXATION PETITION HEARING

Pinewald Keswick Road
Bayville, New Jersey
Thursday, January 8, 2015
6:30 p.m.

BEFORE:

Anthony DePaola, Chairman
Brian Gingrich, Member
John Bacchione, Councilman
Robert Winward, Member
Jack Wiegartner, Member
Frederick Bell, Member
Domenick Lorelli, Member

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APPEARANCES:

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CHERRIOS & CONNORS, ESQS
620 W. Lacey Road
Forked River, New Jersey 08731
BY: GREGORY MCGUCKIN, ESQ.
Attorneys for the Board

O'MALLEY, SURMAN & MICHELINI, ESQS
17 Beaverson Blvd.
Brick, New Jersey 08723
BY: JOSEPH MICHELINI, ESQ.
Attorneys for the Petitioners

ALSO PRESENT:

Kelly Bugg, Secretary
Ernie Peters, Engineer
James Oris, Planner
Stanley C. Slachetka, Planner
Stuart B. Wiser, Planner

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NAME OF WITNESS	PAGE
DONALD WHITEMAN	
BY MR. MICHELINI	22

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MR. DePAOLA: Now, call the agenda application, consideration of agenda application, South Seaside Park Homeowners and Voters Association De-annexation Petition Hearing Action, public hearing and discussion. Is the attorney present?

MR. MICHELINI: Yes, I am.

MR. DePAOLA: Would you come forward?

MR. MICHELINI: Sure. I just want to make sure this mike is working. Yes, it is. Is it okay if I move the mike to the other side of this so that I can put this on?

MR. DePAOLA: Sure, of course.

MR. MICHELINI: Thank you.

Chairman DePaola, my name is Joseph Michelini, members of the board. Welcome new members.

I'm an attorney with O'Malley, Surman & Michelini, which is located in Brick Town and Manchester Township. And I'm a Toms River resident, local person.

This is a little bit of a different application. So, I'd like to give a little bit of an opening statement. It's technically not an application.

(Off the record.)

MR. MICHELINI: Let's start over. My

1 name is Joseph Michelini. I'm an attorney with
 2 O'Malley, Surman & Michelini. We're a local law
 3 firm and I'm a local resident.
 4 I represent the South Seaside Park
 5 Homeowners and Voters Association and the
 6 individuals who have signed a petition, 285 people
 7 of 435 registered voters, who have signed a petition
 8 pursuant to a New Jersey statute, NJSA 40A:7-12,
 9 seeking de-annexation from Berkeley Township and,
 10 ultimately, annexation to the Borough of Seaside
 11 Park.

12 This is not the first time that this
 13 has happened. About 40 years ago, a little less
 14 than 40 years ago, there was such an application
 15 that was made. And, ultimately, it was denied by
 16 Berkeley Township. And then it went through the
 17 courts. And the courts said that it had to be
 18 granted. And it was granted. And then the
 19 applicants at that time went to the Borough of
 20 Seaside Park and Seaside Park turned them down.
 21 Because for this process to work, there first needs
 22 to be permission from Berkeley Township and then
 23 permission from the town to which the individuals
 24 would like to be annexed. And given the length of
 25 time that had occurred, there was a change in the

1 people in power in Seaside Park over the term of
 2 many years that this was litigated last time. And,
 3 ultimately, it did not go through because of that.

4 But the reason that I mention the
 5 history is that it's significant because the facts
 6 are virtually the same as they were in 1978 when
 7 Judge Addison, a local county judge, wrote a reason
 8 decision and said there's really no reason to deny
 9 the request for de-annexation.

10 MR. MCGUCKIN: Mr Michelini, I'm
 11 going to interrupt you there.

12 MR. MICHELINI: Sure.

13 MR. MCGUCKIN: Two things. One, I
 14 think the statute has been amended since 1978

15 MR. MICHELINI: Yes, and I'll get to
 16 that.

17 MR. MCGUCKIN: I don't think that
 18 it's relevant or of any relevance whatsoever for
 19 this board to hear what Judge Addison had to say in
 20 1978 under a prior statute. I don't think it's
 21 relevant. I don't think it should be part of the
 22 record.

23 MR. MICHELINI: Well, I think it's
 24 very relevant. And I think it's part of the record
 25 for this reason, Mr -- with all due respect,

1 Mr McGuckin, the facts with regard to the area are
 2 exactly the same. The geographic facts are exactly
 3 the same. They haven't changed --

4 MR. MCGUCKIN: And you will be
 5 presenting that, I assume --

6 MR. MICHELINI: Of course. Of
 7 course.

8 MR. MCGUCKIN: -- in the testimony

9 MR. MICHELINI: Yes

10 MR. MCGUCKIN: Again, what does
 11 Judge Addison's opinion in 1978 under a different
 12 statute have to do with what's before this board,
 13 none of whom --

14 MR. MICHELINI: Because he relies
 15 upon those geographic facts to a large degree.

16 MR. MCGUCKIN: Again, that's not the
 17 reason for him to decide --

18 MR. MICHELINI: Well, they haven't
 19 changed.

20 MR. MCGUCKIN: -- in this case under
 21 this statute. The statute changed.

22 MR. MICHELINI: Mr McGuckin, with
 23 all due respect, I'll get to the statute changes
 24 You know, we had a discussion about trying to do
 25 this in a civil process --

1 MR. MCGUCKIN: Of course.

2 MR. MICHELINI: -- as possible. And
 3 I would like to do that. I've told my clients to be
 4 civil. And I know the board will be civil. But we
 5 need to present our case because this is our
 6 opportunity to establish a record. And while you
 7 might think it's not relevant, I'm just giving an
 8 opening statement. That's all I'm doing at this
 9 point. So, I would ask for a little bit of latitude
 10 in that regard. I'll try to keep my comments as
 11 brief as possible.

12 MR. MCGUCKIN: That's fine. I just
 13 don't think it's appropriate for that type of
 14 testimony or comments to be presented to the board
 15 who has a different -- who has to make a
 16 determination under the current statute. I
 17 understand you're going to make your case and
 18 absolutely --

19 MR. MICHELINI: Yeah, what I'm
 20 saying --

21 MR. MCGUCKIN: -- no problem.

22 MR. MICHELINI: And I'll get to those
 23 other issues that you raised. I won't leave them on
 24 the table.

25 What this board is asked to do is to

1 make recommendations to the governing body This is
2 not an application for development. We presented
3 the verified petition pursuant to the statute to the
4 governing body The governing body -- and we did
5 that back in September 22 The governing body then
6 referred that petition by resolution dated
7 October 6, to this board. The board then is to
8 conduct hearings, as we are tonight, and then make
9 recommendations or provide an advisory opinion back
10 to the governing body In other words, this board
11 is not making the determination. You are only
12 giving an advisory opinion back to the governing
13 body

14 We previously scheduled in November
15 and December but had to be moved from those
16 calendars And we're here tonight because there
17 were other matters that were on that took
18 precedence. There was a court remand and things of
19 that nature.

20 The things -- the reason that I did
21 mention the history in the prior decision is because
22 many of the geographic facts are the same then as
23 they are now And they're important in determining
24 whether or not it makes sense for this de-annexation
25 petition to be granted.

1 These facts will be testified to, but
2 I'll just go through them very briefly Berkeley
3 Township has 42 9 square miles of land and
4 12 9 square miles of water It's 55.8 square miles,
5 that may be ice tonight, but 55 8 square miles The
6 South Seaside Park area, and I'll refer to an
7 exhibit that will be marked as A-1 This is a
8 State --

9 MR. MCGUCKIN: Why don't we mark it?
10 MR. MICHELINI: Yeah, why don't we
11 mark it, because it will be marked.

12 (The State Department of
13 Transportation map was marked as A-1 for
14 identification.)

15 (The State Department of
16 Transportation map with legend was marked as A-2 for
17 identification)

18 MR. MICHELINI: It's a State
19 Department of Transportation map prepared under the
20 Christie administration. It's got Christie's name
21 on it, so it's current. And the other one has a
22 legend with it. But they are the same map, A-1 and
23 A-2

24 And I'm sure you're all familiar with
25 Berkeley Township. But the things that haven't

1 changed is that South Seaside Park is this little
2 area on this map over here in kind of pink marker
3 that runs from 14th Street to 24th Street and is
4 approximately between -- it's about 30 in terms of
5 square miles It's about 2,500 feet long from north
6 to south or south to north, which is less than a
7 half a mile in one direction. And it constitutes a
8 very small percentage of the overall land area,
9 obviously, of the township, which is quite large,
10 and constitutes less than one percent of the
11 population of the township as well, and only about
12 1,400 housing units, which would be about
13 six percent of the housing

14 There are no churches. There's no
15 schools. There are no libraries There are no
16 senior programs There are a couple of blocks of
17 public beach. But below it, you have Island Beach
18 State Park, which is part of Berkeley Township. And
19 so, should this de-annexation petition be granted,
20 there's still going to be a substantial amount, in
21 fact, about eight or nine miles of public beach,
22 that exists in Berkeley Township Not counting the
23 public beach on the bay side.

24 There is only one way to get there
25 and that's by driving There is no public

1 transportation. There is really only one
2 significant park. It's a basketball court. The
3 average age is now in the 60s over there. As with
4 much of the shore, it's gotten older, especially in
5 the beach communities as they've gone up in value.
6 It is such that you have to, essentially, drive
7 through seven or eight towns to get there from most
8 portions of Berkeley Township. Especially if you
9 want to go to, you know, the shopping areas, the
10 recreational areas of Berkeley Township. But I'll
11 go through that.

12 As you probably know, there's only
13 one police officer who covers both that area and
14 also Pelican Island, which is up between, in the
15 Barnegat Bay up off of Seaside Heights and Toms
16 River The first aid is from Seaside Park, Tri-Boro
17 First Aid. The fire protection is from Seaside
18 Park. And the people of Seaside Park, they believe
19 that they have a very small voice in what happens in
20 this township. And that's -- that's not because the
21 people of Berkeley Township want to ignore them.
22 It's just the way it is

23 They are a small community of about
24 490 residents in a remote area. Most of mainland
25 Berkeley Township is 15 miles away or more from

1 South Seaside Park. That's different than a lot of
 2 the beach communities in Toms River, which they only
 3 have to go a couple miles in order to get over the
 4 bridge to mainland Toms River. But this is remote
 5 because you've got to go all the way up here through
 6 Seaside Heights -- through the Borough of Seaside
 7 Park, through the Borough of Seaside Heights,
 8 through the town of Toms River. If you go through
 9 town and down Route 9, you have to go through South
 10 Toms River, Beachwood, Pine Beach. And, actually,
 11 on the way back you go through Island Heights to get
 12 to Bayville, the Bayville section of Berkeley
 13 Township. And I know you're aware of this because
 14 I'm sure everybody here has made that trip. And on
 15 a good day, it's a 25 or 22 or 30 minute trip. And
 16 on a bad day in the summer or during the high
 17 traffic times, it can be a 45 minute trip or longer.
 18 Those facts really are all the same.
 19 And so, it's geographically remote. The people that
 20 live in that community, they identify fully with
 21 Seaside Park. They don't identify with the Township
 22 of Berkeley. Their post office is over there.
 23 Their address is Seaside Park.
 24 And we're going to demonstrate
 25 through testimony, and tonight will be lay testimony

1 only. I worked that out with Mr. McGuckin that
 2 expert testimony will come at a later date. That it
 3 makes sense from a social standpoint, from a
 4 planning standpoint, that those individuals who
 5 reside over there be allowed to de-annex from
 6 Berkeley Township and become part of the Borough of
 7 Seaside Park.
 8 I would submit to you that, really,
 9 that little area over there is an accident of
 10 history, that it really should have been absorbed by
 11 Seaside Park many years ago and for whatever reason
 12 when the Legislature separated out many towns from
 13 Berkeley Township, I don't know if you know, but
 14 Berkeley Township was part of Dover, but when it
 15 became Berkeley Township, Ocean Gate came from
 16 Berkeley Township. Beachwood, Pine Beach, South
 17 Toms River, Seaside Park, Seaside Heights, they were
 18 all part of Berkeley Township at one time. And they
 19 all got separated out over a period of time. That's
 20 actually on your township website. And all of that
 21 is the same. All of that history and all of those
 22 reasons are essentially the same as they were when
 23 this application originally occurred.
 24 And Mr. McGuckin is right. The
 25 burden has changed. The reasons are the same. But

1 it is our burden to show that it would be a benefit
 2 to the people of Seaside -- South Seaside Park to
 3 become part of Seaside Park Borough, and also to
 4 show that there isn't going to be a significant
 5 injury to the Township of Berkeley.
 6 Now, I don't think anybody could
 7 seriously argue that it would not be a benefit to
 8 the people of South Seaside Park to join Seaside
 9 Park Borough, from a social and economic standpoint.
 10 In terms of whether or not there's an injury to the
 11 Township of Berkeley, I'm sure that the arguments
 12 are going to center on financial injury. Because
 13 they always do. Because when you lose ratables,
 14 it's going to affect the bottom line. There's no
 15 question about that. But that doesn't necessarily
 16 mean that you don't grant the application. Indeed,
 17 applications have been granted in the past and
 18 courts have forced towns to grant or consent to the
 19 application to de-annexation. And in every one of
 20 those situations, there is some financial impact.
 21 So, just because there's a financial impact to
 22 Berkeley Township is not a basis for denying the
 23 application.
 24 The question is one of whether or not
 25 the impact upon Berkeley is so great and so

1 outstanding that it overcomes all of the other
 2 arguments for de-annexation. Is it so -- is it a
 3 significant injury, is what the statute says. And
 4 while the -- back when Judge Addison decided his
 5 case or this case, essentially, with the same set of
 6 geographic facts, I submit to you that the financial
 7 situation was similar as well. However, the burden
 8 was on the town at that point to show that there
 9 would be injury to the town. And the burden is on
 10 the applicant to show that there will not be injury,
 11 significant injury to the town. So, the burdens are
 12 flipped. But the arguments are all exactly the
 13 same. It's just a matter of whether or not we carry
 14 that burden. And that's the burden that we have.
 15 We believe that the testimony will
 16 demonstrate that not only does it make perfect sense
 17 from a geographic standpoint, from a social
 18 standpoint. Socially, all these people, they shop,
 19 they live, their friends are over in that area, in
 20 the Seaside Park area. They go to church in the
 21 Seaside Park area. It makes sense from a social
 22 standpoint. It makes sense from a planning
 23 standpoint. It makes sense from an economic
 24 standpoint for them to not have to drive all the way
 25 over the bridge to go to a meeting here. For

1 instance, they could go to municipal meetings in
 2 Seaside Park, which would be much closer I don't
 3 think that's really debatable.
 4 The financial issue will have to be
 5 addressed through expert testimony And that will
 6 not be tonight. We've retained an expert. I would
 7 like to exchange experts' reports with Mr McGuckin,
 8 both in terms of a planner and a financial expert.
 9 But that will be another night when we coordinate a
 10 date that all the experts are good to come in and
 11 testify Because I'm sure they're all going to want
 12 to be here.
 13 So, tonight what I would like to do
 14 is present lay testimony that I don't really think
 15 is really debatable. And I would ask that you allow
 16 these people to say their piece. I have six or
 17 seven witnesses that I will try to get all the
 18 information that I can. I realize that there are
 19 many, many more people here. And I would ask those
 20 people that if you want to make a comment, to keep
 21 this moving, because the six or seven witnesses are
 22 going to take some time. And then anybody else that
 23 comes up after that as part of the public, if they
 24 could just say, me too, and raise their issue in the
 25 context of what's already been said, so we don't

1 have repetition over and over again. I know the
 2 board would like that. So, having said those --
 3 MR. MCGUCKIN: On that -- I'm sorry
 4 MR. MICHELINI: Yeah.
 5 MR. MCGUCKIN: I don't want to
 6 interrupt you before you finish. But I think you're
 7 just about finished.
 8 MR. MICHELINI: Yes.
 9 MR. MCGUCKIN: And on that last issue
 10 that you addressed, I take it you represent anyone
 11 who signed the petition. So --
 12 MR. MICHELINI: That's correct.
 13 MR. MCGUCKIN: -- I don't believe --
 14 MR. MICHELINI: For the purposes of
 15 the proceeding, yes
 16 MR. MCGUCKIN: Yes So, if anyone
 17 you represent wants to testify and they're on --
 18 whether they're on the petition or not. But if
 19 they're on the petition, you know, we're going to
 20 let you present your case.
 21 MR. MICHELINI: Right.
 22 MR. MCGUCKIN: But then I don't know
 23 if we're going to let more people --
 24 MR. MICHELINI: Well, I would just
 25 say, I would let them come up, give their address

1 and say what they agree with without going into much
 2 detail to keep it very short. I don't want to
 3 foreclose people from saying what they want to say
 4 This has been going on for a long time.
 5 MR. MCGUCKIN: We'll address that as
 6 we go forward.
 7 MR. MICHELINI: Yeah. Sure.
 8 MR. MCGUCKIN: If we could address a
 9 couple other things
 10 MR. MICHELINI: Sure.
 11 MR. MCGUCKIN: Because Mr Micheline
 12 and I have talked a number of times on this And we
 13 did have a court remand, which forced it to be
 14 pushed.
 15 MR. MICHELINI: We understand that.
 16 MR. MCGUCKIN: And we know that the
 17 statute provides a time frame for the board to
 18 consider the matter We also know that not one town
 19 that I'm aware of who's addressed these issues has
 20 ever met that time frame --
 21 MR. MICHELINI: That's correct.
 22 MR. MCGUCKIN: -- there's no
 23 provision in the statute for that. So, this will
 24 take a number of hearings in the matter And as he
 25 had indicated, he had indicated tonight he would

1 bring his lay testimony witnesses I understand
 2 that's what's going to happen tonight. And just
 3 at -- Mr Micheline has given an outline of what the
 4 general law is, the decisions and so forth, the
 5 consideration this board's going to have to give to
 6 the matter And as the testimony goes forward,
 7 you'll be able to hear from planners representing
 8 the applicant and perhaps the board's planner's
 9 office and our engineer and so forth and so on, and
 10 potential other witnesses So, this is not going to
 11 be something that's going to be addressed tonight.
 12 You're not going to be making a decision in the near
 13 future. But there will come a point in time after
 14 the testimony is completed, after all the hearings
 15 are concluded, that the board will then be faced
 16 with the determination as to a recommendation that
 17 will be presented to the township governing body on
 18 the issue, on its request for de-annexation.
 19 And I think the only other thing I'm
 20 concerned about is, I know we want to set dates so
 21 we can lock in the hearing dates The only thing we
 22 can't control is what applications come before us
 23 and have a time frame under the land use law
 24 statute.
 25 MR. MICHELINI: Sure

1 MR. MCGUCKIN: So, I think what I
2 would suggest, and we can talk about it tomorrow, we
3 don't have to talk about it tonight, but my --
4 MR. MICHELINI: Yeah, we'll work it
5 out.
6 MR. MCGUCKIN: -- suggestion is, we
7 can dedicate at least two hours each evening that
8 we're hearing, that the board is meeting, to this
9 issue and just this issue. And then we can handle,
10 you know, other applications first and begin this at
11 eight or something like that.
12 MR. MICHELINI: I think that's an
13 excellent idea. I'm sure we can work that out,
14 Mr. McGuckin.
15 MR. MCGUCKIN: All right.
16 MR. MICHELINI: We worked well
17 together to this point, and I'm sure that can be
18 worked out.
19 MR. MCGUCKIN: And just for the
20 board's edification, we do have a representative of
21 Remington & Vernick who the board may not have met
22 before. That's Stuart Wiser. He's a professional
23 planner also, as well as a -- anyway, he's a
24 professional planner. And he'll be representing
25 Remington & Vernick in the matter

1 We also have our township planner,
2 board planner, James Oris, who's here and stands by
3 He's with him, so.
4 MR. MICHELINI: Okay. What I would
5 like to do at this time is call Don Whiteman up.
6 And I'm going to grab this easel if that's okay.
7 And, actually, I have an extra copy of this map.
8 It's not as marked up but I'm going to bring it
9 forward anyway. I'm not going to mark it with an
10 exhibit tab, but it's the same map. So, if the
11 board wants to look at it up close, you have it.
12 DONALD WHITEMAN, having been duly sworn, according
13 to law, upon his oath, testified as follows:
14 MR. MCGUCKIN: And your full name,
15 sir?
16 THE WITNESS: My name is
17 Don Whiteman. I live at 2000 Barnegat Avenue, South
18 Seaside Park.
19 MR. MCGUCKIN: Is it W-h-i-t-e-m-a-n?
20 THE WITNESS: Whiteman, yes.
21 MR. MCGUCKIN: Is there an E in
22 there?
23 THE WITNESS: Yes.
24
25 EXAMINATION BY MR. MICHELINI:

1 Q Okay. Mr. Whiteman, your address on
2 Barnegat Avenue, is that in South Seaside Park?
3 A Yes, it is in South Seaside Park.
4 Q What is your mailing address?
5 A My mailing address is 2000 Barnegat
6 Avenue, South Seaside Park.
7 Q What post office does your mail come
8 to?
9 A My mail comes to Seaside Park.
10 Q Now, how long have you lived in South
11 Seaside Park?
12 A I lived in South Seaside Park
13 probably since about 1953 with, maybe when I went
14 off to college, I wasn't there. And probably three
15 other years. So, I would have to say I'm 63 now.
16 Probably for about 58 years, 59 years in South
17 Seaside Park.
18 Q Are you familiar with the history of
19 South Seaside Park?
20 A I'm very familiar with the history of
21 South Seaside Park, since my family had roots in
22 South Seaside Park back during the 1930s living in
23 South Seaside Park, too, which they were, I guess we
24 could say, the pound boat fishermen during that time
25 of history.

1 And my mom, being 94 years old now, she lives
2 in South Seaside Park. And she's one of the last, I
3 guess, of the local Seaside girls who, at her age
4 now, she's still going strong at 94 living in South
5 Seaside Park.
6 Q Okay. And you raised your family
7 there?
8 A My family has been raised there, just
9 like my parents raised me in South Seaside Park
10 also.
11 Q And who do you live in the house with
12 now?
13 A Right now, I live in the house with
14 my gorgeous wife, Gail, who's right here, and my
15 daughter.
16 Q Pretty smooth, too. Okay. All
17 right.
18 So, having been familiar with the --
19 indicating that you're familiar with the history of
20 South Seaside Park, can you tell us a little bit
21 about that history? I've told the board but you
22 can --
23 A Right.
24 Q -- tell them what you know, what
25 you've learned. I know you want to mark a map,

1 right?
 2 A Right.
 3 MR. MICHELINI: Let me have that
 4 marked first, make that easier
 5 (The Map from Rutgers University was
 6 marked as A-3 for identification.)
 7 MR. MICHELINI: For the purpose of
 8 the record, I'm just going to have you identify the
 9 exhibits that have already been marked.
 10 THE WITNESS: Okay
 11 MR. MICHELINI: So the record is
 12 clear when we read this some day and we know what
 13 we're talking about.
 14 Q Can you tell us what A-1 is?
 15 A This is A-1 This is a picture of
 16 Berkeley Township in its full state here, of
 17 Berkeley Township. What I've done is, I've numbered
 18 the towns here that left Berkeley Township and
 19 formed either their own borough or, matter of fact,
 20 were granted to form their own borough or went into
 21 a town.
 22 Q Okay Before we get to that, that is
 23 a map that is from the State of New Jersey
 24 Department of Transportation --
 25 A Yes

1 Q -- prepared under the Christie
 2 administration. So, it's a current map, correct?
 3 A Yes
 4 Q So, A-1 is that map. And you've
 5 prepared it with yellow marking and numbers to show
 6 the outline of the township, correct?
 7 A Yes
 8 Q And also to show the number of towns
 9 that have previously been part of Berkeley Township
 10 but no longer are part of Berkeley Township?
 11 A That is correct.
 12 Q I'll let you go through that in a
 13 minute but I want to mark the exhibits
 14 What is A-2?
 15 A Okay A-2, again, is the same exact
 16 map. All right. The only thing is, I have a legend
 17 here on the bottom that denotes -- do I say anything
 18 about this or should I --
 19 Q No, just, it has a legend and the
 20 legend is showing different parts of the township --
 21 A Different places
 22 Q -- buildings, places?
 23 A Yes, different --
 24 Q We'll get to that
 25 A -- buildings in Berkeley Township.

1 Q Okay We're just identifying it,
 2 this map.
 3 And A-3 is a map of what?
 4 A A-3 is a map that I got from the --
 5 Q You can show them.
 6 A Rutgers archives, Rutgers University
 7 archives that shows that South Seaside Park was set
 8 up with Seaside Park and, as I was always told
 9 growing up, that there was a boundary error And
 10 this map here denotes that the area from North
 11 Avenue, which was first formed in, I want to say
 12 1898, was supposed to continue all the way down to
 13 24th Avenue. And in that, Rutgers --
 14 MR. MCGUCKIN: I'm going to interrupt
 15 you for one second.
 16 THE WITNESS: Sure.
 17 MR. MCGUCKIN: Is that what the
 18 document says or is that --
 19 THE WITNESS: No, no, no. That's
 20 what -- if you look at it, you see the streets and
 21 the lots from North Avenue all the way to 24th
 22 Avenue as a town. Can I say the first section of
 23 the town that was forming their own borough.
 24 The only problem is, when we now look
 25 at it, it stops at 14th Avenue. The purpose of this

1 map is to show that the North Avenue to 14th Avenue
 2 was also supposed to continue all the way down to
 3 24th Avenue.
 4 MR. MCGUCKIN: Is that what the map
 5 says or is that what you believe it shows?
 6 THE WITNESS: No, no, that's not what
 7 it says It was told to me by the old timers who
 8 lived there back in the '30s, okay
 9 MR. MCGUCKIN: Who was that?
 10 MR. DePAOLA: I'm sorry Go ahead.
 11 MR. MCGUCKIN: Let's keep the record
 12 clear
 13 Who was it who told you that?
 14 THE WITNESS: Okay What we have who
 15 are now deceased, was my dad, Don Whiteman, Senior
 16 My uncle, who was an Enderson, the well driller, who
 17 basically, when they lived in the area, it was
 18 always told to us that it was a boundary mistake
 19 when it came to the drawing up of lines
 20 I know in the last de-annexation
 21 report, that also was made reference to also
 22 BY MR. MICHELINI:
 23 Q Okay So, just so we understand,
 24 this is, for purposes of marking the record, this is
 25 A-3 It's entitled Seaside Park --

1 A Uh-hum.
 2 Q -- Island Beach, Ocean County,
 3 New Jersey, correct?
 4 A Right. Yes
 5 Q And at the -- at one part at the
 6 right end of the map, which would be the northern
 7 end, it says North Avenue?
 8 A Yes. And that was the boundary of
 9 the original north boundary of Seaside Park when it
 10 was first -- when it first left Berkeley Township.
 11 Q And the bottom end of the map is
 12 24th Avenue. And that's the bottom boundary today,
 13 correct?
 14 A That's the bottom boundary today,
 15 yes
 16 Q Okay And then you've identified
 17 something in red. Is that the area that is South
 18 Seaside Park today?
 19 A That is the area of South Seaside
 20 Park today, yes.
 21 Q The red or pink marker I can't
 22 really tell
 23 A Yes
 24 Q Okay So, this is a map that you
 25 found. It appears to be dated either 1918 or 1916,

1 it's hard to read, correct?
 2 A Yes.
 3 Q And you're not a title officer?
 4 A No, I'm not.
 5 Q You're just saying what you believe
 6 this map shows based upon what you were told growing
 7 up, correct?
 8 A Yes, what we were told growing up.
 9 Q And can you tell us what this map was
 10 prepared for? I'll pass it around.
 11 A Okay
 12 Q If you know
 13 A Yes This map was prepared for, they
 14 were selling properties in Seaside Park. And I
 15 believe they were selling 50 by 100 lots. This
 16 property, 50 by 100 lot, were going for, I think you
 17 could purchase for 50 bucks And what they tried to
 18 do, they put it in the newspapers to say, if you
 19 would like to be part of Seaside Park, it ran in, I
 20 think, the papers in Camden and Philadelphia, come
 21 here to Seaside Park, Island Beach. And what
 22 happened is, you will see that we had plenty of lots
 23 available.
 24 Again, when I say Island Beach, some of you
 25 may not be aware of this, but when we talk about

1 Island Beach, Island Beach extends from Barnegat
 2 Inlet all the way up to Point Pleasant. Today they
 3 call that Barnegat Beach Island. Ideally, it should
 4 be called Island Beach Island. And, you know, if
 5 you take a look at the old maps, it does say, when
 6 it says on that map Island Beach, they're referring
 7 to the Island Beach island.
 8 MR. MCGUCKIN: Hold on a second.
 9 THE WITNESS: Sure.
 10 MR. MCGUCKIN: Did somebody tell you
 11 that or --
 12 THE WITNESS: No, no, no. That's,
 13 when you take a look at the old archive maps, it
 14 shows our island was called Island Beach Island.
 15 MR. MCGUCKIN: Right.
 16 THE WITNESS: It was called
 17 Island Beach, just like Long Beach Island is called
 18 Long Beach Island. You go in the archives, it will
 19 say Island Beach as that strip of land.
 20 MR. MCGUCKIN: Okay
 21 Q Today only the state park is known as
 22 Island Beach today --
 23 A Yes
 24 Q -- but you're saying a long time ago,
 25 the peninsula all the way from Manasquan Inlet to

1 the end of what is today Island Beach State Park was
 2 known as the Island Beach Island?
 3 A Island Beach Island.
 4 MR. MCGUCKIN: I have a question on
 5 A-3 It appears that this is two pages that have
 6 been matched together
 7 THE WITNESS: Yes
 8 MR. MCGUCKIN: That's what it appears
 9 to be.
 10 MR. DePAOLA: It seems in fact.
 11 MR. MCGUCKIN: Did you put these
 12 together or --
 13 THE WITNESS: I put those together
 14 I have the original if you'd like to see the
 15 original
 16 MR. MCGUCKIN: Two separate sheets of
 17 paper?
 18 THE WITNESS: Pardon?
 19 MR. MCGUCKIN: They're two separate
 20 sheets of paper?
 21 THE WITNESS: No, what I had to do is
 22 enlarge it so I could see it.
 23 MR. MCGUCKIN: Okay But they're two
 24 separate sheets of paper?
 25 THE WITNESS: Right now, they are --

1 they were two separate sheets of paper that I put
2 together
3 MR. MCGUCKIN: Okay
4 THE WITNESS: Okay I have the one
5 sheet of paper
6 MR. MICHELINI: Well, you have it on
7 one sheet. You just enlarged it and it became two?
8 THE WITNESS: Yes
9 MR. MICHELINI: Okay
10 MR. DePAOLA: Okay When was that?
11 As of when?
12 MR. MICHELINI: It's either 1916 or
13 1918 It's very hard to read.
14 MR. DePAOLA: It is. It's very hard
15 to read.
16 MR. MICHELINI: But it's in the
17 teens We can probably get clarification on exactly
18 what the date is before the next meeting.
19 MR. DePAOLA: Well, okay, but I have
20 a question. When did those --
21 MR. MICHELINI: He's going to get to
22 that.
23 THE WITNESS: I got that, yes
24 MR. MICHELINI: He's going to get to
25 all those towns and when they came out of Berkeley

1 Township.
2 MR. WISER: If I can, Mr Chairman.
3 MR. DePAOLA: Yes, sure.
4 MR. WISER: It might be helpful for
5 the board, and certainly for the professionals, that
6 any exhibits of that size that are reproducible --
7 MR. MICHELINI: Sure.
8 MR. WISER: -- that multiple copies
9 be submitted so we can all have them for our review
10 MR. MICHELINI: Absolutely Yes No
11 problem. And we can -- I mean, you can even have
12 the extra map that I submitted. But that's not
13 easily reproducible.
14 BY MR. MICHELINI:
15 Q Okay So, going to A-1, can you tell
16 us what --
17 MR. MCGUCKIN: I'm sorry I just
18 want to make sure for the record. On A-2, the
19 legend that's on there.
20 MR. MICHELINI: Yes
21 MR. MCGUCKIN: Is that something you
22 prepared, the legend itself?
23 THE WITNESS: Yes, again, I had to --
24 MR. MCGUCKIN: So, that legend
25 doesn't appear on the state map? That's a legend

1 that you prepared and put on A-2?
2 THE WITNESS: The legend over to the
3 right is what I prepared. This is what was on the
4 state map.
5 MR. MCGUCKIN: Okay So, the
6 right --
7 THE WITNESS: There's two legends
8 here. This is the original legend that goes with
9 the map.
10 MR. MICHELINI: And you're referring
11 to the left-hand corner where it says, Ocean
12 County --
13 THE WITNESS: Yes
14 MR. MICHELINI: -- State of New
15 Jersey Department of Transportation?
16 MR. MCGUCKIN: Right.
17 MR. MICHELINI: And that applies to
18 both maps, correct --
19 THE WITNESS: Yes
20 MR. MICHELINI: -- that legend? And
21 then on A-2, there's a legend where you've
22 color-coded various areas of the town such as the
23 police complex, the municipal complex that we're
24 standing in, the sanitation department, et cetera.
25 That's your legend, correct?

1 THE WITNESS: That is my legend.
2 MR. MCGUCKIN: Got it.
3 MR. MICHELINI: Thank you,
4 Mr McGuckin.
5 BY MR. MICHELINI:
6 Q All right. So, going back to A-1
7 Can you tell us what A-1 shows in terms of history?
8 A Okay First of all, if you take a
9 look at the map here -- and, again, I'm just --
10 Seaside Park, South Seaside Park, some of you may
11 not know the history, but believe it or not, that
12 was a Baptist meeting town, okay What was
13 happening is, this was supposed to be, at one time
14 years ago, the churches, just like you have in Lacey
15 the Methodist area, here was the Baptist, and they
16 were basically at Seaside Park/South Seaside Park
17 area.
18 Q Now, on the map, you've identified in
19 a pink marker
20 A Yes
21 Q Is that the area of South Seaside
22 Park as it is today?
23 A Yes, the pink area is of South
24 Seaside Park --
25 Q Let me just --

1 A -- in relationship to Berkeley
 2 Township.
 3 Q Let me stop you right there.
 4 Berkeley Township is in the yellow, correct?
 5 A Yes.
 6 Q I'm sure the members are familiar
 7 with that. And South Seaside Park, I made
 8 statements about its size in my opening, which is
 9 not evidence. But do you know those things to be
 10 true, that it's approximately .25 to 3 in terms of
 11 square mile area? About 2,500 feet long north to
 12 south? Containing about 490 year-round residents?
 13 Do you know those things --
 14 A Yes.
 15 Q -- to be true?
 16 A Yes, I do.
 17 Q All right. So, go ahead and explain,
 18 if you will, what you can from the map that you've
 19 marked as A-1
 20 A Right. Now, the reason why I
 21 prepared this map also was to give you a little
 22 idea. At one time, Berkeley was part of -- Berkeley
 23 Township was part of Toms River Township. And
 24 Berkeley Township split away from Toms River
 25 Township in 1875.

1 Q Now, that would have been
 2 Dover Township, technically?
 3 A Dover Township back then, yes
 4 What had happened, I guess, during that time,
 5 in 1898, there was, again, a movement to form a
 6 borough with Seaside Park.
 7 Now, that borough today goes from
 8 Farragut Avenue all the way down to 14th Avenue.
 9 But it didn't all happen at once. The first section
 10 happened, which we have to now go from North Avenue
 11 to 14th Avenue, that occurred back in 19 -- or
 12 pardon me -- 1898 And then from North Avenue up to
 13 the northern part, which would be Farragut Avenue, I
 14 believe that occurred, from the records that you
 15 see, occurred in 1907/1908 is the second part of the
 16 town or the northern part of that.
 17 Q When you say the town, you're talking
 18 about Seaside Park?
 19 A I'm talking about Seaside Park.
 20 Q The borough?
 21 A The Borough of Seaside Park.
 22 Q And that -- okay
 23 A And really, when you take a look at
 24 it, the borough's forming and the township's
 25 breaking away, I'm trying to show you that it's

1 something that has occurred often here in Berkeley
 2 Township.
 3 Q That is also on the Berkeley Township
 4 website?
 5 A Yes, it is
 6 Q As part of their history?
 7 A And that's where I did get some of
 8 the material, from the Berkeley Township website.
 9 Q All right. So, Seaside Park left in
 10 approximately 1898 in pieces?
 11 A In pieces, yes
 12 Q And then what town next left?
 13 A So then we have right here is Seaside
 14 Heights And in 1911, Seaside Heights again formed
 15 its own barrier or own borough. And what had
 16 happened was, when it formed its own borough, again,
 17 that came from Berkeley Township.
 18 I have others here. Beachwood in 1917 And
 19 what we look at is, Beachwood in 1917 left Berkeley
 20 Township again. 1917, formed their own borough.
 21 Then in 1918, Ocean Gate pulled away from Berkeley
 22 Township and formed their own borough. 1925, Pine
 23 Beach, Pine Beach also pulled away from Berkeley
 24 Township, pulled their own -- formed their own
 25 borough. And then in 1927, South Toms River decided

1 to leave Berkeley Township, form their own borough.
 2 It didn't stop there, okay And what had
 3 happened in 1933, Island Beach State Park, which was
 4 just basically Island Beach, petitioned. And what
 5 they did is, they were granted to form their own
 6 borough here in 1933 And it was basically a
 7 borough until 1951 when the state park bought the
 8 property And when the state park bought the
 9 property, they then requested that Berkeley Township
 10 goes back into -- or pardon me -- Island Beach go
 11 back into Berkeley Township instead of having their
 12 own borough. And, really, Island Beach did have a
 13 mayor at the time back then in 1933
 14 Didn't end there. Okay And what had
 15 happened was, in 1978, South Seaside Park was
 16 granted to go into Seaside Park. And I think you
 17 know the history that, what had happened when it was
 18 granted. And how do I know this? My father,
 19 Don Whitman, Senior, was the individual with
 20 Judy Applebee that did the de-annexation and pushed
 21 for the de-annexation back in -- and they started
 22 back in 1972 So, in 1978, that was, again, from
 23 Berkeley Township, wanting to leave Berkeley
 24 Township to go into the adjoining community of
 25 Seaside Park.

1 Q And that was by court decision,
 2 ultimately?
 3 A And that was by court decision.
 4 Q Berkeley Township opposed that at the
 5 time?
 6 A Yes Yes. Berkeley Township did
 7 oppose that. And if you like --
 8 MR. MCGUCKIN: Couple questions on
 9 this subject.
 10 THE WITNESS: Sure.
 11 MR. MCGUCKIN: It didn't happen? It
 12 never left in '78?
 13 THE WITNESS: It -- yes
 14 MR. MCGUCKIN: It never left? It
 15 remained part of Berkeley Township and is today?
 16 THE WITNESS: It remained. It was
 17 given an A okay to go.
 18 MR. MCGUCKIN: It never went?
 19 THE WITNESS: But it never went, yes.
 20 MR. MCGUCKIN: Now, South Toms River,
 21 was that a petition for de-annexation?
 22 THE WITNESS: It was petition to form
 23 their own borough.
 24 MR. MCGUCKIN: Okay Did Berkeley
 25 Township oppose or consent? Do you know?

1 MR. MICHELINI: I don't know if --
 2 THE WITNESS: That I -- I don't know
 3 if they opposed.
 4 MR. MICHELINI: They might have
 5 petitioned the legislature. I don't know if these
 6 were petitions to the boroughs or petitions to the
 7 legislature and the legislature --
 8 MR. MCGUCKIN: Do you know if it was
 9 voluntary, meaning that Berkeley suggested it or
 10 agreed to it or -- for any of these towns, for
 11 instance.
 12 THE WITNESS: I can tell you right
 13 now that, looking at all these towns, I don't know
 14 if it was something where Berkeley agreed or
 15 Berkeley said no, and they fought them along the
 16 way I have no idea of knowing that.
 17 MR. DePAOLA: But we don't know?
 18 THE WITNESS: We don't know that.
 19 MR. MICHELINI: The only thing we do
 20 know is that they were part of Berkeley Township and
 21 then they became their own towns
 22 MR. DePAOLA: Yeah, but you're going
 23 back 1898 --
 24 MR. MICHELINI: That's correct.
 25 MR. DePAOLA: -- 1905, 1918, 1925,

1 1927 I mean --
 2 MR. MICHELINI: All the way up to
 3 1978 where it didn't happen because Seaside Park
 4 declined, although the courts ordered that it should
 5 happen.
 6 MR. DePAOLA: I have a few questions
 7 that I would like to ask.
 8 THE WITNESS: I hope I can answer
 9 them for you.
 10 MR. DePAOLA: Well, I don't know
 11 But have the laws of de-annexation changed since
 12 1898?
 13 MR. MICHELINI: Only the burden has
 14 changed. In other words, back then, the burden was
 15 on the municipality to show that there --
 16 MR. MCGUCKIN: Mr Michelini, he said
 17 since 1898
 18 MR. MICHELINI: Oh, I'm sorry
 19 MR. MCGUCKIN: That's okay
 20 MR. MICHELINI: I thought he said
 21 1978 I mis --
 22 MR. MCGUCKIN: He said 1898
 23 MR. DePAOLA: No.
 24 MR. MICHELINI: Yeah. Yeah.
 25 MR. DePAOLA: Well, I mean, you're

1 bringing up things from 1898
 2 MR. MICHELINI: Right.
 3 MR. DePAOLA: I mean --
 4 MR. MICHELINI: The point is to
 5 show --
 6 MR. DePAOLA: I'm not the brightest
 7 guy in the world but, I don't know, I think the laws
 8 of de-annexation have changed emphatically since
 9 1898 I mean, you know, we can go back to East
 10 Orange being part of Newark at one time.
 11 MR. MICHELINI: Sure.
 12 MR. DePAOLA: I mean, I don't know
 13 MR. MICHELINI: The point is to --
 14 MR. DePAOLA: I mean, I'm listening
 15 but I don't know what the de-annexation has to do
 16 with 1898 That's --
 17 MR. MICHELINI: Well, the point is to
 18 show the history And I can tell you --
 19 MR. DePAOLA: Well, I understand
 20 that. But we can go back in Essex County, Hudson
 21 County and we can do the same thing I don't know
 22 if this is -- if that, personally, my own opinion,
 23 if that's going way back to 1898 or 1905, 1918,
 24 1925 --
 25 MR. MICHELINI: Well, certainly --

1 MR. DePAOLA: I mean, we can look on
2 a map and find -- I'm only asking That's fine. I
3 mean, I just don't -- my personal, it's just my --
4 MR. MICHELINI: Well, I'll tell you
5 what.
6 MR. DePAOLA: I'm trying to put this
7 all together
8 MR. MICHELINI: Sure.
9 MR. DePAOLA: And we're coming up
10 with 1898 I mean, you know, that's when my
11 grandfather came from Italy
12 MR. MICHELINI: Sure.
13 MR. DePAOLA: I mean --
14 MR. MICHELINI: Let's focus on --
15 MR. DePAOLA: -- you know, that's a
16 long time ago.
17 MR. MICHELINI: I understand that.
18 Let's focus The point is to show the history,
19 first of all
20 MR. DePAOLA: I think I knew that.
21 MR. MICHELINI: Well, I don't know
22 who knows it and who doesn't know it. So, you know,
23 I appreciate the fact that you know it, but there
24 could be members of the board that don't know the
25 history

1 MR. McGUICKIN: We can all agree that
2 there are now some existing boroughs which used to
3 be part of Berkeley Township.
4 MR. MICHELINI: Okay
5 MR. McGUICKIN: We can agree that it
6 was Ocean Gate, Pine Beach, Beachwood, South Toms
7 River, Seaside Park.
8 MR. MICHELINI: And Seaside Heights
9 MR. McGUICKIN: And Seaside Heights.
10 MR. DePAOLA: Yes
11 MR. MICHELINI: Yes.
12 MR. McGUICKIN: We don't know why they
13 left. If they left voluntarily If the borough --
14 if the township wanted them to leave or if they
15 wanted to leave, the township didn't. We don't know
16 if they petitioned the state. All we know is that
17 they used to be part of Berkeley Township.
18 MR. MICHELINI: Right. And I'd like
19 to just have Don, because his father, his family was
20 involved in the de-annexation effort back in the
21 '70s, to explain those circumstances that's much
22 more current. And that ultimately, although it
23 wasn't granted by Seaside Park, the issue came
24 before the Berkeley Township Planning Board and the
25 governing body It was denied. And then the courts

1 said no, no, no, no, it should be granted. The same
2 geographic --
3 MR. McGUICKIN: As we said before, I
4 fail to see how that is in any way relevant to this
5 proceeding I don't believe it's proper in the
6 record. I don't believe it has anything to do with
7 this hearing before this board for a number of
8 reasons Number one, 1978 was 30, 40 years ago.
9 Number two, not only has the law changed, so have
10 all the facts and circumstances Demographics, the
11 economic issues, the financial issues, the social
12 issues Some may be the same. But you're free to
13 present that testimony here.
14 MR. MICHELINI: Right.
15 MR. McGUICKIN: But it seems to me
16 what you're trying to do is argue that because a
17 judge in 1978 found certain facts, that somehow that
18 is evidence to be presented to this board. And I
19 would not agree with you, and I don't think it's
20 appropriate for the board to consider that.
21 MR. MICHELINI: Well, let me just
22 say, I agree that each case is decided on its
23 merits I understand that. But what I'm saying is,
24 there are many, many, many similarities to what
25 happened in 1978

1 MR. McGUICKIN: And you are free to
2 place those all on the record as to the reasons why
3 de-annexation may be appropriate in this case.
4 MR. MICHELINI: Right.
5 MR. McGUICKIN: But what occurred, the
6 reasons in 1978 are not relevant to this proceeding
7 in 2015
8 MR. MICHELINI: Well, they are if the
9 courts in 1978 came up with ten reasons why a
10 de-annexation should be granted, and today we come
11 up with the same ten reasons, then it is relevant.
12 MR. McGUICKIN: I disagree. You would
13 have ten reasons why it should be de-annexed. It
14 has nothing to do with what happened in 1978
15 MR. MICHELINI: Then we have -- we
16 have a disagreement. I think it's instructive to
17 the board.
18 MR. DePAOLA: If I may If I may
19 Can't we do this civilly like in -- and I
20 understand, and that's beautiful I'm glad he knows
21 history I really am. But, I mean, can't we just
22 say these towns since 19 -- since 1898, and we'll go
23 back and name all the towns, broke away I mean,
24 what -- I mean, what other important facts do we
25 need to know? We know that they all broke away,

1 okay
 2 MR. MICHELINI: And we've established
 3 that.
 4 MR. DePAOLA: And I agree. But we
 5 don't know why. If everything that we're hearing
 6 now -- and even -- and everything is just all
 7 hearsay. I mean, you're quoting people who we don't
 8 know. I mean, aren't here to --
 9 MR. MICHELINI: Well, I think
 10 Mr. Whiteman's testimony about the history is, in
 11 terms of the dates and so forth, is not hearsay in
 12 the sense that he's researched it and it's also on
 13 your website for the township. So, I don't think
 14 it's hearsay in that sense. And nobody really
 15 disputes those dates anyway.
 16 MR. DePAOLA: No, we're certainly not
 17 disputing anything.
 18 MR. MICHELINI: What I would like to
 19 do --
 20 MR. DePAOLA: We're just saying it's
 21 a long time.
 22 MR. MICHELINI: Okay.
 23 MR. DePAOLA: I mean, 1898 is a long
 24 time away.
 25 MR. MICHELINI: Let me move on to

1 1978
 2 MR. DePAOLA: I'm sure -- well, I'm
 3 sure the laws of de-annexation has changed --
 4 MR. MICHELINI: Only the burden has
 5 changed.
 6 MR. DePAOLA: -- and they don't --
 7 well, I understand. But socially -- everything has
 8 changed. I mean, you may not think they've changed
 9 but everything has changed.
 10 MR. MICHELINI: I don't think the
 11 geography has changed at all.
 12 MR. DePAOLA: No.
 13 MR. McGUCKIN: Again, what does that
 14 have to do with this hearing?
 15 MR. MICHELINI: It has a lot to do
 16 with the hearing.
 17 MR. McGUCKIN: It's a question of --
 18 Let me finish. What does the issues in 1978 have to
 19 do with what happens in 2015?
 20 MR. MICHELINI: I think they can --
 21 MR. McGUCKIN: The basis for the
 22 request for the de-annexation in 2015?
 23 MR. MICHELINI: Every case stands on
 24 its own. I understand that. But what I am saying
 25 is there are similarities between those cases,

1 between --
 2 MR. McGUCKIN: What's the difference?
 3 MR. MICHELINI: -- that case and this
 4 case and that can -- Look, it can be very
 5 instructive to this board. If the board chooses not
 6 to -- if it chooses to ignore the history in that
 7 sense, they can do that, but let us put it on. And
 8 if the board chooses to --
 9 MR. McGUCKIN: We don't know what the
 10 circumstances were in 1978. We don't know what the
 11 economic benefits --
 12 MR. MICHELINI: Well, Mr. Whiteman
 13 knows some of the circum -- some of the -- he can
 14 identify the issues that were issues then that are
 15 issues now.
 16 MR. McGUCKIN: He can identify it
 17 from the history of people in South Seaside Park.
 18 But we don't know what the board and the township
 19 considered in 1978. We have no idea what the
 20 considerations were, nor do we know what
 21 Judge Addison considered at that point in time. Nor
 22 is it instructive or appropriate or relevant now.
 23 MR. MICHELINI: Well, I think it --
 24 MR. McGUCKIN: In fact, the times are
 25 different. I mean, that was, Jimmy Carter was

1 president. What does it have to do with this?
 2 MR. MICHELINI: I realize times are
 3 different. I realize that. Many of the same issues
 4 are the same. That's the point.
 5 MR. McGUCKIN: But if they're the
 6 same or identical --
 7 MR. MICHELINI: The point is --
 8 MR. McGUCKIN: -- why can't you just
 9 present your testimony now as to the reasons why you
 10 think de-annexation is appropriate now?
 11 MR. MICHELINI: We will present it.
 12 We'd just like to present a little history.
 13 MR. McGUCKIN: I don't -- I think
 14 you've presented the history.
 15 MR. MICHELINI: We haven't presented
 16 the history from 1978 and the reasons as to why
 17 de-annexation was being sought then.
 18 MR. McGUCKIN: It never happened. It
 19 never happened.
 20 MR. MICHELINI: It happened in terms
 21 of this town and this board and the council. It
 22 just didn't happen in terms of Seaside Park because
 23 the politics had changed.
 24 MR. McGUCKIN: It's up to the board.
 25 Mr. Chairman, I don't believe it's relevant. I

1 don't believe it's appropriate. But it's your
2 decision as a board.

3 MR. DePAOLA: I, I certainly agree.
4 I don't think it's relevant. I don't know what the
5 rest of the board --

6 MR. BACCIONE: I agree. I don't see
7 the relevance.

8 VOICE: Still goes in the transcript.

9 MR. DePAOLA: Brian?

10 MR. GINGRICH: I think we should move
11 on to where, what happened -- I have to agree with
12 you that, what happened in, that's all wonderful
13 history, but we need to get on to where we have to
14 be.

15 MR. MICHELINI: Well, you know, this
16 is the only opportunity we have to present a record.
17 We don't get a record before the judge. We don't
18 get people to testify before a judge. This is the
19 record. So we're trying to establish as big a
20 record as we can. The rules of evidence do not
21 strictly apply in this type of proceeding, although
22 you are a quasi judicial body I would ask for some
23 latitude. If you don't give me the latitude, I
24 understand. I'll move on. But I would ask for some
25 latitude because this is our only opportunity for

1 the record. The last thing I want to do is go
2 through this and then have a judge say, you got to
3 go back, and then waste everybody's time by having
4 to do it over again.

5 MR. McGUICKIN: Mr Chairman, the
6 issue is whether or not de-annexation is
7 appropriate. Our recommendation to the governing
8 body is whether it's appropriate now I think I've
9 had a very good history lesson. We know that in
10 1978 South Seaside Park wanted to be de-annexed and
11 go to Seaside Park. We know that there was a court
12 hearing And we know that -- I don't know what else
13 we would need from that. But the issue is whether
14 or not in today's day and age whether it is
15 appropriate or not appropriate.

16 What happened in 1978 is not
17 relevant. I don't believe the board has to sit and
18 listen to it. I don't believe it has any bearing on
19 this proceeding

20 MR. DePAOLA: I agree. I don't see
21 where the bearing that it has to do with 1898 They
22 succeeded from Berkeley That's fine. I mean, we
23 can go back.

24 MR. MICHELINI: Just so we're clear,
25 you're not allowing any testimony at this time --

1 MR. DePAOLA: No, no, no. I don't
2 think we said that. If you want to go on.

3 MR. MICHELINI: About 1978

4 MR. McGUICKIN: Well, if you're going
5 to -- any testimony that mirrors what happened in
6 1978 as to conditions now is for both --

7 MR. MICHELINI: I would like --

8 MR. McGUICKIN: -- so you're free to
9 do that. But we're not going to go back and review
10 what happened in 1978 I don't think it's fair to
11 this board to do that.

12 MR. MICHELINI: I just wanted
13 Mr Whiteman to tell us what the issues were in 1978
14 or 1974

15 MR. McGUICKIN: Why? What is the
16 difference?

17 MR. MICHELINI: Because --

18 VOICE: For the same thing

19 MR. MICHELINI: Excuse me. Please
20 don't talk.

21 It can be instructive to the board.
22 It can be instructive to the board because the board
23 is going to enter into a similar process. Why
24 wouldn't you want to know, if the process is similar
25 and a judge has already ruled and it took years, why

1 wouldn't you want to know what the issues were that
2 the judge said the town had to rely upon?

3 MR. McGUICKIN: I'm sorry I didn't
4 mean to interrupt you.

5 MR. MICHELINI: I lost my train of
6 thought.

7 Why wouldn't you want to know what
8 those issues were, especially if the judge came back
9 and said, you know what, you got it wrong? Why --
10 you wouldn't want to make the same mistake again.

11 I realize the facts are not all the
12 same. I understand that. You know, the budgets are
13 different now There's more -- a lot more money
14 being raised in 2015 than there was in 1978 But
15 the percentages I can tell you are almost identical
16 in terms of money And the issues that my clients
17 are going to testify to, which is geographical
18 remoteness, services, you know, travel time, things
19 of that, they're all the same. Those are virtually
20 the same. So why wouldn't you want to know what the
21 judge did back then? As instructive. Not as
22 binding Not binding on anybody You can do
23 whatever you want. But why wouldn't you want to
24 know if this has been done before?

25 MR. McGUICKIN: Because there's no

1 way, there's no way for this board to know the
 2 counter arguments and the other discussions that
 3 took place, both at the planning board level, at the
 4 township level and in court. Everything has
 5 changed. Although you say all the facts are the
 6 same, we don't know because we --

7 MR. MICHELINI: I didn't say all the
 8 facts are the same.

9 MR. MCGUCKIN: You said -- I'm sorry
 10 You said most of them.

11 MR. MICHELINI: I said many of them
 12 are the same.

13 MR. MCGUCKIN: We don't know what
 14 those facts are and it -- so, what is the difference
 15 what it was in 1978? What difference does it make
 16 to this board, none of whom were here in 1978, to
 17 hear what happened in 1978?

18 MR. MICHELINI: I think if I were on
 19 the board, I'd want to know I think it makes a
 20 difference. I'd want to use that as some type of
 21 instruction or guide book, at least in part. If you
 22 don't want to do that, that's fine. But, to me,
 23 that's not -- that's not being totally open to our
 24 petition.

25 MR. DePAOLA: I would just like to

1 address the board. Board, you know, I would just
 2 like them to know, we know what happened. It
 3 started in 1898 And all these towns moved from,
 4 which they did in every other towns in New Jersey,
 5 but that's neither here nor there, back in, starting
 6 in 1898, 1905, 1918, 1925, 1927, 1933.

7 Now, if you all think it's important
 8 and you want to listen to further testimony, that's
 9 fine with me. I really don't care. I just don't,
 10 personally, I just can't see where something that
 11 took place so many years ago is going to be relevant
 12 to this case. And I wish one of the professionals
 13 could at least guide me on this Because I could be
 14 wrong

15 MR. WISER: Mr Chairman, one of the
 16 things that I would point out is that not only has
 17 there been a change in the statute since that time,
 18 but there has also been a number of cases that have
 19 been decided that would -- that guide the board in
 20 terms of how they make their recommendation and then
 21 guide the governing body as to how they make their
 22 ultimate decision.

23 I think there are -- you know, if the
 24 applicant wants to say that this is an issue that
 25 goes way back, that's one thing But I think the

1 facts as they stood then, simply may not be relevant
 2 given the case -- relevant to your decision. Not
 3 that they're not relevant to the petitioners, but
 4 they may not be relevant to your decision and your
 5 recommendation.

6 MR. DePAOLA: Thank you. I
 7 appreciate that. Thank you.

8 Does anybody else --

9 MR. WINWARD: It just seems to me
 10 like what he's trying to do is establish historical
 11 precedence that all these others broke away, so
 12 South Seaside Park should break away It seems like
 13 maybe that's where he's going with this. That's my
 14 opinion.

15 MR. GINGRICH: Why don't we poll the
 16 board and see if we've heard enough and we want him
 17 to move on or do we want to hear more of his facts

18 MR. DePAOLA: Yes, that's a good
 19 idea.

20 Can I have a vote on it, Kelly,
 21 please.

22 MS HUGG: Mr Gingrich.

23 MR. GINGRICH: I vote that we move
 24 on.

25 MS HUGG: Mr Lorelli

1 MR. LORELLI: I vote we move on. I
 2 feel that -- if he could tie in things that happened
 3 years ago into his case, what we're doing today, is
 4 relevant. So far, from what I've heard, I haven't
 5 seen anywhere how it's going to tie in. So, I think
 6 we should move on.

7 MS HUGG: Councilman Bacchione.

8 MR. BACCHIONE: To Mr Michelini's
 9 point regarding putting the history on the record.
 10 History is already on the record. Any one of us can
 11 review the same information that Mr Whitman is
 12 presenting So, I don't see the relevance behind --
 13 you made your point about how many of the other --

14 MR. MICHELINI: Yeah, but --

15 MR. BACCHIONE: I'm not done yet.

16 MR. MICHELINI: Go ahead.

17 MR. BACCHIONE: I'm sorry

18 MR. MICHELINI: That's okay

19 MR. BACCHIONE: You made your point
 20 about how many of the other sections of Berkeley
 21 Township have either de-annexed or have passed the
 22 legal, whatever the case is To Mr McGuckin's
 23 point, we don't know exactly what happened back
 24 then. So, to bring up history to sort of give us
 25 some information to make a decision, in my opinion,

1 is not relevant.

2 To your point earlier, Mr. Michelini,
3 every case stands on its own. So, make your case.
4 I think we should get to the meat and potatoes of
5 this case. Tell us why you want, why you feel
6 de-annexation is a benefit to both Berkeley Township
7 and South Seaside Park and let's move on.

8 MR. MICHELINI: If I can just respond
9 briefly to that.

10 MR. DePAOLA: Sure. You certainly
11 may

12 MR. MICHELINI: The record is -- when
13 I say record, the record is whatever we establish
14 here through testimony. When it goes to a court, a
15 court doesn't look outside of that. That's why, if
16 I think history is important, I want to get it in,
17 I've got to have it testified to here. I can't say
18 to the judge later on, but Judge, look at this, if
19 it wasn't brought up in this meeting. So, I run a
20 risk if I don't bring things up that a judge won't
21 consider them later on. So, attorneys like myself
22 tend to risk, you know, err on the side of trying to
23 bring in information rather than exclude
24 information. Because if it does -- if I can tie it
25 in, you know, and I think the tie-in with 1978 is,

1 there's a lot of the same issues

2 MR. GINGRICH: Excuse me a second,
3 sir

4 MR. MICHELINI: Yes

5 MR. GINGRICH: I thought this was a
6 vote by the board.

7 MR. MICHELINI: It is. He said I
8 could respond briefly

9 MR. DePAOLA: He just wanted to --

10 MR. MICHELINI: Go ahead. If you
11 want to continue your vote, that's fine. That's
12 fine.

13 MR. DePAOLA: No, I agree. I just
14 want to -- Jack, do you have an --

15 MR. WIEGARTNER: I'd like to just
16 move on, if we could.

17 MR. DePAOLA: Mr. Bell

18 MR. BELL: I'm ready to move on. I'm
19 waiting to see why we're trying to annex and get the
20 facts of that -- or de-annexation, I should say

21 MR. MICHELINI: De-annexation.

22 MR. DePAOLA: Bob?

23 MR. WINWARD: I appreciate the
24 history. That is good. But I think we do need to
25 move on to see why it's relevant in 2015 that they

1 need to break away from the township, not why it was
2 relative decades ago.

3 MR. MICHELINI: Okay. Mr. Whiteman,
4 having heard what the board said, we're going to
5 skip over the history from 1978 and the reasons
6 related to Judge Addison's decisions. And I'm going
7 to show you what's been marked A-2

8 MR. DePAOLA: Can I stop you there
9 again about Judge Addison, please. When did Judge
10 Addison rule on this?

11 MR. MICHELINI: 1978

12 MR. DePAOLA: Judge Addison in 1978?

13 MR. MICHELINI: Correct.

14 MR. DePAOLA: Okay. And that was how
15 many years ago?

16 MR. MICHELINI: It was a long time
17 ago, sir. It actually, after that, it went to the
18 Appellate Division. He wasn't the --

19 MR. DePAOLA: I'm talking about Judge
20 Addison. You mentioned Judge Addison.

21 MR. MICHELINI: Right, because --

22 MR. DePAOLA: 1978, how many years
23 ago was that? 50? 60?

24 MR. MICHELINI: Whatever it was

25 VOICE: Thirty-six.

1 MR. DePAOLA: Whatever. I'm not good
2 at math.

3 MR. MICHELINI: It will be 37 years
4 sometime this year

5 MR. DePAOLA: Okay. I mean, you're
6 acting like Judge Addison -- you're acting like
7 Judge Addison has ruled on it yesterday. I mean,
8 you know, you keep mentioning Judge Addison. This
9 is 40 years ago, so --

10 MR. MICHELINI: With all due respect,
11 Mr. Chairman, I was about to ask a question about
12 the next exhibit. What I -- all I did was place on
13 the record that we were --

14 MR. DePAOLA: Yeah.

15 MR. MICHELINI: -- not going to
16 present that testimony. So, it's in the record that
17 we're not presenting the testimony. That's all
18 I'm establishing a record.

19 MR. DePAOLA: I appreciate that. I
20 just want to get to the meat, the nuts and the
21 bolts --

22 MR. MICHELINI: I understand that

23 MR. DePAOLA: -- of everything that
24 is taking place here. And I hope you can appreciate
25 it. We want to be able to rule on something that

1 why
 2 MR. MICHELINI: Sure.
 3 MR. DePAOLA: And yet, we're getting
 4 a history lesson. I don't know Maybe it's okay
 5 for you. And I understand that. I don't need a
 6 history lesson now I mean, I hope you understand
 7 that.
 8 MR. MICHELINI: I understand your
 9 concern. And I was ready to ask the next question.
 10 We just spent five minutes for no reason.
 11 MR. DePAOLA: I'm sorry Can you
 12 continue then, please?
 13 MR. MICHELINI: I certainly will
 14 BY MR. MICHELINI:
 15 Q Showing you what's been marked A-2,
 16 Mr Whiteman, can you tell us what you did with that
 17 exhibit and why?
 18 A Okay What I did with this exhibit
 19 here is, I got in my car and I drove to different
 20 areas of Berkeley Township, different areas and how
 21 long it would take for me to travel the roads How
 22 much time it would take for me to travel the roads
 23 to get to these different areas.
 24 Now, as you can see, we are isolated where we
 25 are, okay I had a wonderful experience. I was

1 able to ride my bike to a council meeting in
 2 Seaside Park. It was great. I can't do that here
 3 in Berkeley Township.
 4 Q How far is it to the council meeting
 5 in Seaside Park?
 6 A The council meeting from my house in
 7 Seaside Park is really less than a mile, okay It's
 8 probably about three-quarters of a mile. My trip
 9 going over here to a council meeting, which would be
 10 number two, that is where the council is, you know,
 11 it took me quite a long time to travel over there.
 12 MR. GINGRICH: Sir, can I ask you a
 13 question?
 14 THE WITNESS: Sure.
 15 MR. GINGRICH: Didn't it take you the
 16 same time amount to travel when you decided to buy
 17 your house there?
 18 THE WITNESS: What had happened was,
 19 I bought my house there, and that's why I'm here
 20 today
 21 MR. GINGRICH: But then this
 22 building --
 23 THE WITNESS: Right.
 24 MR. GINGRICH: -- was still here.
 25 THE WITNESS: Right. And that's why

1 I'm here today
 2 MR. GINGRICH: And the house was
 3 still there when you bought it?
 4 THE WITNESS: That's why I'm here
 5 today to say to you, it shouldn't have to be like
 6 that.
 7 MR. GINGRICH: Well, then you can buy
 8 a house two miles down the road. Then you can come
 9 here on your bike. I mean, that, to me, that
 10 particular -- I mean, somebody else that lives on
 11 the far side of the township over there, they have
 12 trouble getting over to your side of the bridge.
 13 THE WITNESS: And I understand that,
 14 yes.
 15 MR. GINGRICH: Same argument.
 16 THE WITNESS: Uh-hum. I just know
 17 that I do like going to the council meetings And
 18 it is a very, very rough time --
 19 MR. GINGRICH: Everybody can say that
 20 to all different parts of the county --
 21 THE WITNESS: -- traveling down 37,
 22 traveling down the Parkway, Double Trouble Road, you
 23 know, on the times that I have here, were times that
 24 I done in March, okay And --
 25 BY MR. MICHELINI:

1 Q So, if you would go through each one
 2 to demonstrate the geographical distance or
 3 remoteness from South Seaside Park to places within
 4 Berkeley Township utilizing this map. Would you go
 5 through each one. I know it was in March. Correct?
 6 A Yes
 7 Q So, it wasn't necessarily during the
 8 summer?
 9 A Right. It was on a Sunday afternoon
 10 in March. I drove from 23rd Avenue, the public
 11 beach in South Seaside Park. I got in my car, drove
 12 down the Parkway I drove down 37, went down the
 13 Parkway, came to Double Trouble Road, approximately
 14 16 miles All right. On that day where I went, it
 15 took about 31, 31 minutes to travel All right.
 16 Now, is that something --
 17 Q And that was to where? To here?
 18 A That was to here, yes
 19 Q To this building, the municipal
 20 building?
 21 A Yes And that's only one way Now I
 22 have to drive back 16 2 miles, plus another 30 or 31
 23 minutes But it's in March.
 24 Let's try to do this during the summertime.
 25 And these times can and do expand. I have driven

1 here to town hall where it's taken me 45 minutes one
 2 way And I look at that and I say, when I have
 3 something right up the street, that would be ideal
 4 for me to go up the street.
 5 We also have the police headquarters right
 6 over here, 16 1 miles Why would I go to the police
 7 headquarters? Well, if you want to park on
 8 Oceanside, you have to get the little stickers to
 9 put in your window so you can park there. So, I
 10 have to travel over here to get those stickers
 11 Is there by chance a substation in South
 12 Seaside Park? No, there's not a substation in South
 13 Seaside Park. Could there be a substation in South
 14 Seaside Park? Oh, I'd love to see it. But guess
 15 what? It's not there, where Toms River Township has
 16 one, where Brick Township has one, but Berkeley
 17 Township looks at it and says, it's not important,
 18 we cannot put one there.
 19 MR. MCGUCKIN: Listen, if you're
 20 going to testify to facts, testify to facts
 21 THE WITNESS: Yes Sorry
 22 MR. MCGUCKIN: If you give opinions,
 23 you give an opinion, but let's phrase it as such.
 24 THE WITNESS: Yes
 25 MR. MCGUCKIN: All right? Don't talk

1 about what other people do
 2 THE WITNESS: Okay All right.
 3 Sorry
 4 A So, these are the two. Then comes to
 5 the sanitation department. I had to bring some
 6 items over here to the sanitation department. And I
 7 think you know it's right across the street. Again,
 8 I'm traveling. And the travel time, again in March,
 9 is the same, which was 31 minutes
 10 I have other little notations here, okay
 11 For notation four is the Berkeley Township Sewage
 12 Authority What we did is, I drove over there,
 13 again, going down Route Nine for the Berkeley
 14 Township Sewage Authority And, again, when you
 15 take a look at it, Berkeley Township Sewage
 16 Authority took me, again, 30 -- I want to say 24
 17 minutes and 35 seconds, okay So, what had
 18 happened, the distance was 13 5 miles Why would I
 19 go there? I forgot to send a bill in, I had to go
 20 pay
 21 We have five, six, seven and eight. They're
 22 all our elementary schools My son and daughter
 23 went to the Berkeley schools Great school system.
 24 We did like it. But what happens when my son and
 25 daughter were on the buses for 55 minutes and I

1 realized the route picking up other people, I think
 2 that's much, for students to be on the bus.
 3 I drove over to the H & M Potter, which was
 4 14 1 miles away, and it took me 26 minutes and 30
 5 seconds one way
 6 Q Let me just stop you there.
 7 A Sure.
 8 Q It's the same school district,
 9 though, for Seaside Park as it is for South Seaside
 10 Park, it's Central Regional School District, but not
 11 for elementary?
 12 A Not for the elementary So, the high
 13 school for Seaside Park, they do still have students
 14 going to Central Regional, but they also have
 15 students going to Toms River schools for their
 16 elementary -- pardon me -- Central Regional for the
 17 Seaside Park and also for the South Seaside Park.
 18 Q The elementary go to Toms River now?
 19 A Right, the elementary
 20 Q From Seaside Park?
 21 A I got that switched, yes
 22 Q Elementary go --
 23 A Yes
 24 Q Okay So, if this de-annexation
 25 petition was granted, those children who now maybe

1 are on the bus for 55 minutes, would have a much
 2 shorter trip to go over to Toms River, correct?
 3 A Yes, they would go to the school at,
 4 Washington Street School in Toms River
 5 Q Okay So, go on with your trips that
 6 you took and how long they were.
 7 A Okay I also went to the -- and the
 8 reason why I look at these five, six, seven and
 9 eight, the school systems, if you're --
 10 MR. MCGUCKIN: Well, before you move
 11 on to the next one. How far do the Seaside Park
 12 kids travel to school in Toms River?
 13 THE WITNESS: Washington Street
 14 School, I did not drive the Washington Street
 15 School I would assume about six miles, five miles
 16 MR. MCGUCKIN: You had to go up
 17 through Seaside Park, Seaside Park --
 18 THE WITNESS: Right They would have
 19 to go up here --
 20 MR. MCGUCKIN: -- over the bridge,
 21 across 37 to Washington Street, down Washington
 22 Street to the Washington Street Elementary School,
 23 correct?
 24 THE WITNESS: Yes, it's right here.
 25 BY MR. MICHELINI:

1 Q And there is a scale on that map
2 which would indicate that you could probably -- you
3 could figure it out, right?
4 A Yes.
5 Q Okay Certainly, less than going
6 down into the main area of Berkeley Township,
7 correct?
8 A Yes
9 MR. DePAOLA: Yes Can I just stop
10 there? And you're probably correct on everything
11 you're saying. And I do agree. But I'd just like
12 to ask you a question.
13 How long -- no, no, no. I don't mean
14 it that way How long have you been doing this? I
15 mean, did this just happen? How long have you been
16 in South Seaside Park?
17 THE WITNESS: My whole -- just about
18 my whole life.
19 MR. DePAOLA: Okay And you just
20 realized in 2015 that that was a long trip?
21 THE WITNESS: No, I realized when my
22 dad back in 1978 decided that this trip was too
23 long
24 MR. DePAOLA: Why is it that you
25 bring it up in 2015? Why didn't you bring it up in

1 2018 --
2 THE WITNESS: They did bring it up.
3 MR. DePAOLA: I mean, yeah, 2018 -- I
4 mean, in 2010 or 2005 or -- I mean, why 2015?
5 Why -- it's been going on for 40 years You've been
6 riding your bike to the --
7 THE WITNESS: Only one bike to the
8 council meetings
9 MR. DePAOLA: Well, I'm just saying
10 THE WITNESS: Right.
11 MR. DePAOLA: But it's been 40 years
12 since And you've been doing this for 40 years
13 And now why now you want to change?
14 THE WITNESS: Well, I --
15 MR. DePAOLA: I'm only asking you a
16 question
17 THE WITNESS: Great question. Great
18 question.
19 MR. DePAOLA: Like I said, just a
20 question.
21 THE WITNESS: Great question. I look
22 at my town. And the reason why I'm here, I look at
23 my town and I see that my town roads are not
24 cleaned. I see that in my town, we have snow
25 removal that doesn't take place I look at my town

1 and I see a bay front that no one does and takes
2 care of I mean, when you --
3 MR. DePAOLA: Well, I -- that's --
4 THE WITNESS: -- put all those
5 together --
6 MR. DePAOLA: That's a different
7 issue. I understand that. And I'm not trying to
8 but --
9 THE WITNESS: Okay When I saw my
10 son --
11 (Off the record.)
12 MR. DePAOLA: I was just wondering
13 why And I agree with you.
14 THE WITNESS: Yes
15 MR. DePAOLA: Because, you know, ride
16 on your bike to your town hall or to our town hall
17 or whatever and it's closer for the bus I was
18 just -- and I hope you understand where I'm coming
19 from also. Why now? Why 2015?
20 THE WITNESS: Because --
21 MR. DePAOLA: Why not 2005? Why
22 not -- you know what I'm trying to say?
23 THE WITNESS: I understand. Great
24 question. And if you had Mayor Verano here, he
25 would testify that I have been at the council

1 meetings complaining about all these, probably from
2 2000 and before, okay And as I said, I know about
3 the council meetings I've been to the council
4 meetings to voice my opinion about things
5 MR. DePAOLA: I appreciate that.
6 THE WITNESS: And all these things
7 were things that I voiced my opinion about for years
8 and years and years Okay So, it's not something
9 that I'm just doing today It's something that I
10 have done over years and years. Okay?
11 MR. DePAOLA: Okay I was just -- I
12 was just trying to understand.
13 MR. MICHELINI: And so, over those
14 years --
15 MR. DePAOLA: And I hope you can
16 understand why I asked that --
17 THE WITNESS: I understand, yes
18 MR. DePAOLA: -- I asked that
19 question --
20 THE WITNESS: Right.
21 MR. DePAOLA: -- because, you know
22 MR. MICHELINI: And so -- yeah, I
23 understand.
24 BY MR. MICHELINI:
25 Q Let me just ask a followup So, for

1 those many years you were dissatisfied with the many
2 things that you mentioned and tried to get relief
3 from the council and did not get the relief that you
4 wanted to get?

5 A Right. We -- even to the idea of
6 repaving our roads in South Seaside Park, it wasn't
7 going on at all. There were so many things that
8 weren't being done. We're part of the community of
9 Berkeley Township. I look at the Seaside Park and I

10 see when a snowstorm comes, their roads are clean
11 and plowed. Our roads are not. All right. Just
12 with that, I look there and I say, well, what's
13 going on? Okay. There are things that are
14 happening in the adjacent town that should be
15 happening with our town and it's not occurring.

16 And I sat down with my wife one day and just
17 said, you know, I have my briefcase there, that's
18 all the de-annexation stuff from 1978. My dad was
19 head of it. I looked through there. What's
20 happening today is the same thing happened in 1978.

21 MR. DePAOLA: Okay. I think now
22 I'm -- thank you. You know, I understand now.

23 THE WITNESS: Yes.

24 MR. DePAOLA: So, you know, go on. I
25 didn't mean to interrupt.

1 THE WITNESS: Okay.

2 BY MR. MICHELINI:

3 Q So, yeah, go back to the map and the
4 various areas that you've identified the distances
5 that you drove, how long it took you, et cetera.

6 A I mean, we have, we have the four
7 schools here. My son went to H & M Potter. You
8 have the Bayville School down here. You have
9 Clara B. Worth, number seven. You have the new
10 Berkeley Township school. My son was part of the
11 basketball program. And with the basketball
12 program, we had to travel to these schools, okay.
13 Would I have liked to have traveled up here to
14 Seaside Park and play? Yeah. And I tried to get
15 into the Toms River program because it was closer.
16 I was told I couldn't get into the recreation
17 program in Toms River because I'm not a resident,
18 okay.

19 MR. McGUICKIN: Does Seaside Park have
20 a recreation basketball program?

21 THE WITNESS: Seaside Park at one
22 time did have it. They don't have it now. But
23 years ago, they did have a recreation program. They
24 have a little league program also, which is not
25 really little league, it's Island Junior Baseball

1 League, which we were able to --

2 MR. McGUICKIN: All right. So, just
3 so we're clear. You were mentioning traveling here
4 for basketball.

5 THE WITNESS: Yes.

6 MR. McGUICKIN: Seaside Park does not
7 currently have a recreation --

8 THE WITNESS: Yes, and back when,
9 when --

10 MR. McGUICKIN: I'm not talking
11 about -- just answer my question.

12 THE WITNESS: They don't have it now,
13 no.

14 MR. MICHELINI: But he was --

15 MR. McGUICKIN: For residents
16 current -- for residents currently, if their kids
17 want to play recreation basketball, they would
18 travel to the Berkeley schools and play in a
19 recreation basketball league here in Berkeley
20 Township?

21 THE WITNESS: That's what they would
22 have to do, yes.

23 MR. McGUICKIN: Okay. And with
24 respect to little league, if they want to play
25 little league baseball, they would have to come over

1 here to Berkeley Township, come over to Bayville; is
2 that correct?

3 THE WITNESS: If they would like to
4 play --

5 MR. McGUICKIN: Little League
6 baseball?

7 THE WITNESS: -- the little league
8 itself --

9 MR. McGUICKIN: Yes.

10 THE WITNESS: -- they would have to
11 go there to the Berkeley Township. But if they
12 would like to play an organized league of baseball,
13 they have it on the island.

14 MR. McGUICKIN: And they have that
15 whether you're a resident of South Seaside Park or
16 Seaside Park?

17 THE WITNESS: Right. What happens
18 is, whether you're a resident of Seaside Park,
19 South, Seaside Park, Lavallette --

20 MR. McGUICKIN: So, they could do that
21 now, whether you're part of Seaside Park or Berkeley
22 Township?

23 THE WITNESS: Yes, but it's not the
24 official little league. So, if you --

25 MR. McGUICKIN: Right. But if they

1 wanted -- and no one in Seaside Park plays official
 2 little league. So, whether this de-annexation
 3 occurs or not, that would not change?
 4 THE WITNESS: I don't know if anyone
 5 in Seaside Park goes there to Berkeley Township to
 6 be part of the little league. I have no idea.
 7 MR. MCGUCKIN: But South Seaside Park
 8 residents' rec programs, Seaside Park doesn't have
 9 it. And they don't have little league baseball
 10 THE WITNESS: They do have rec
 11 programs during the summertime.
 12 MR. MCGUCKIN: No, no. I'm saying
 13 the summer -- the basketball league that you talked
 14 about.
 15 THE WITNESS: They don't have a
 16 basketball league, no.
 17 MR. MCGUCKIN: And baseball is part
 18 of the island league. And whether you're part of
 19 Seaside Park or Berkeley Township, children in South
 20 Seaside Park can still play in that island
 21 baseball --
 22 THE WITNESS: Yes, as well as
 23 people --
 24 MR. MCGUCKIN: So, it has nothing to
 25 do with whether or not you're part of Seaside

1 Park --
 2 THE WITNESS: Right. Right.
 3 MR. MCGUCKIN: -- or Berkeley
 4 Township?
 5 THE WITNESS: As well as players from
 6 Berkeley Township and Toms River can play in the
 7 island baseball league.
 8 MR. MCGUCKIN: Sure.
 9 MR. GINGRICH: But that's not a
 10 sanctioned little league?
 11 THE WITNESS: But it's not a
 12 sanctioned.
 13 MR. GINGRICH: They couldn't go to
 14 Williamsport?
 15 THE WITNESS: No, no, we don't go to
 16 Williamsport.
 17 MR. GINGRICH: So, then --
 18 THE WITNESS: Yes
 19 MR. GINGRICH: -- the kids that want
 20 to go to Williamsport --
 21 THE WITNESS: They have to go travel
 22 MR. GINGRICH: -- and they travel
 23 over there?
 24 (Off the record.)
 25 BY MR. MICHELINI:

1 Q If you -- the elementary schools,
 2 which numbers are those?
 3 A Elementary schools are five, six,
 4 seven and eight.
 5 Q Okay So, if you're an elementary
 6 school student, though, that is in South Seaside
 7 Park, then you have to travel all the way to five,
 8 six, seven or eight to one of those schools --
 9 MR. MCGUCKIN: Why don't we clarify
 10 that.
 11 Q -- is that correct? For school?
 12 MR. MCGUCKIN: Which elementary
 13 school do the --
 14 MR. MICHELINI: If he knows
 15 MR. MCGUCKIN: -- children from South
 16 Seaside Park attend in the Berkeley school system?
 17 Which elementary school?
 18 THE WITNESS: I can only say for
 19 myself, mine attended the H & M Potter School
 20 Q Which number is that?
 21 A H & M Potter was number six.
 22 MR. MCGUCKIN: And currently, you
 23 don't know which school they attended in Berkeley?
 24 THE WITNESS: Currently, I don't
 25 know

1 MR. MCGUCKIN: But if you were part
 2 of Seaside Park, they would attend school at the
 3 Washington Street Elementary School in --
 4 THE WITNESS: They would attend --
 5 there are some who attend school at the Washington
 6 Street. And I know there are some who attend school
 7 at Lavallette.
 8 MR. MCGUCKIN: That's a tuition
 9 paying basis?
 10 THE WITNESS: That is a tuition
 11 paying basis, yes
 12 MR. MCGUCKIN: But for non-tuition
 13 purposes, they would have to travel to Toms River to
 14 go to elementary school if you were part of Seaside
 15 Park?
 16 THE WITNESS: Yes, if we were part of
 17 Seaside Park, it would --
 18 BY MR. MICHELINI:
 19 Q Which is much closer, correct?
 20 A Yes, it is It is a lot closer
 21 Q Probably about half the distance,
 22 correct?
 23 A Yes That is correct. It would be
 24 about half the distance
 25 Q All right. And so, in terms of the

1 other places in the township that you've marked, if
2 you're in South Seaside Park and you want to go to a
3 Berkeley Township facility, what else have you
4 marked?

5 A All right. Number nine, the old town
6 hall, which is now the rec building, okay If we
7 wanted to go to the recreation building to pick up
8 badges or to sign up, we would have to travel to the
9 Berkeley Township rec building, which is about 20,
10 pardon me, 15.7 miles, which, again, during the
11 wintertime, takes about 28 and a half -- 28 minutes,
12 35 seconds is what it took me, one way to get to the
13 rec building.

14 Q That's for badges and other things
15 that they offer?

16 A They have something offered on 23rd
17 Avenue. But sometimes if you're not there at the
18 right time, you may not be able to pick up your
19 beach badges or you may want to sign up for rec
20 programs here at the rec building, you have to take
21 a trip over there to the rec building

22 Q Okay Anything else that you'd like
23 to show with this particular map?

24 A Yes, for those of us in South Seaside
25 Park who may be golfers, again, what happens to be

1 part of the golf area, golfing and Veterans Park is
2 over here at number ten, okay. And when you take a
3 look at that, at number ten, again, the time that it
4 took was just a little over 30 minutes and -- or 30
5 minutes and it's 15 2 miles Again --

6 MR. MCGUCKIN: Let me ask you a
7 question

8 THE WITNESS: Sure.

9 MR. MCGUCKIN: If you're a resident
10 of Berkeley Township, do you get a reduced rate for
11 golf at Berkeley Municipal golf --

12 THE WITNESS: We do get a reduced
13 rate. I think we still do.

14 MR. DePAOLA: Yes

15 MR. MCGUCKIN: If you became part of
16 Seaside Park, would you no longer receive that rate?

17 MR. DePAOLA: Yes

18 THE WITNESS: We don't receive it if
19 we are no longer part of Berkeley Township, correct.

20 MR. MCGUCKIN: And Seaside Park does
21 not have their own municipal golf course?

22 THE WITNESS: Yes, we do not -- they
23 do not have their own municipal golf course.

24 MR. MCGUCKIN: So, the residents of
25 South Seaside Park would no longer receive that

1 benefit if they became part of Seaside Park; is that
2 correct?

3 THE WITNESS: For Berkeley Township,
4 you're absolutely right.

5 MR. MCGUCKIN: Thank you.

6 BY MR. MICHELINI:

7 Q Where would they go, then, to play
8 golf?

9 A They would go to Bay Lea Golf Course
10 which is, again --

11 MR. DePAOLA: Can I --

12 A -- a lot closer Yes

13 MR. DePAOLA: Can I stop you there?

14 And it's true. He's right. They
15 would have to go to Bay Lea, which would probably
16 approximately be the same amount of time. Only
17 thing, he would have to pay -- he wouldn't pay
18 resident's fee. He would pay much more than he
19 would if he went, so --

20 MR. MICHELINI: Well, I understand
21 that.

22 MR. DePAOLA: I just thought I
23 would --

24 MR. MICHELINI: But it's -- Bay Lea
25 is that closer or further?

1 MR. DePAOLA: He wouldn't get
2 resident's fee at Bay Lea. He'd have to pay the --
3 what do you call that?

4 MR. WINWARD: Nonresident rate.

5 MR. DePAOLA: Nonresident rate.
6 Thank you.

7 THE WITNESS: Even --

8 MR. DePAOLA: You'd have to pay the
9 nonresident rates at Toms River, where in Berkeley
10 you would get the residents' fee. Okay I'm sorry

11 THE WITNESS: Okay

12 MR. DePAOLA: I just thought we'd
13 bring that out.

14 THE WITNESS: Okay I know myself,
15 since I do own property in Dover Township, I'm
16 assuming that then I would be offered that in Dover
17 Township. And just speaking about myself --

18 MR. MCGUCKIN: We're not just
19 concerned about you, Mr. Whiteman. You understand,
20 we have to be concerned about all of the people.

21 THE WITNESS: Yes, but I'm just
22 speaking of myself I know you're asking questions
23 just about me. And I thought, let me answer just
24 about me.

25 BY MR. MICHELINI:

1 Q Okay All right. Anything else you
2 want to show from A-2?
3 A That's it.
4 Q Okay Now, there has been some
5 discussion of other issues that you've been bringing
6 up about lack of services.
7 Actually, before we go further, you had
8 indicated on a chart, the mileage, the distance and
9 the time to the various areas that goes with A-2,
10 correct?
11 A Yes, I did. I did take a day and I
12 did drive and I did use a stopwatch.
13 Q Why don't we have that marked. And
14 then --
15 A Yes.
16 Q -- we'll make you copies after the
17 hearing
18 (The Whiteman mileage chart was
19 marked as A-4 for identification.)
20 MR. MCGUCKIN: Mr. Michelini, how
21 much longer do you think you have with this witness?
22 MR. MICHELINI: A while. Why don't
23 we take a break.
24 (Recess was taken.)
25 MR. DePAOLA: Okay Meeting will

1 come to order now
2 MR. MCGUCKIN: Mr. Chairman, I did
3 have a discussion with the attorney for the
4 petitioners. We have had discussions. We know that
5 this is going to take a number of hearings. We're
6 certainly not going to finish tonight or come close.
7 MR. DePAOLA: Right.
8 MR. MCGUCKIN: Judging on the pace of
9 things, maybe longer than we thought originally
10 VOICE: We can't hear you.
11 MR. MCGUCKIN: I apologize. We did
12 have some discussion about, you know, the two hours
13 that we had agreed at the beginning of the hearing
14 that we would make sure that every meeting were
15 guaranteed at least two hours for this petition.
16 And I discussed with Mr. Michelini. And we would
17 ask if tonight we would go till about 8:30. We'll
18 schedule it again for our next meeting and we will
19 continue that process until this matter is
20 concluded. It's going to take a number of months,
21 obviously. And it's going to take a period of time.
22 So, we know we're not going to get too far tonight
23 but we're going to -- we start at the start. We
24 keep going each meeting
25 I think if we go beyond two hours on

1 this particular hearing, knowing we have to come
2 back anyway, I think it would be a little -- not as
3 productive as we could be if we do it all in two
4 hours each time. I think that would be appropriate.
5 MR. DePAOLA: Is that okay with you?
6 MR. MICHELINI: Well, you know,
7 certainly, if the board would prefer that, we'll go
8 along with that. Because I realize it's hard to
9 concentrate on one thing for an extended period of
10 time, so --
11 MR. DePAOLA: Yeah, because, and we
12 do this -- we and this board would really want to
13 get it right, okay. And we want to make sure that
14 we listen to all the testimony and we get this done
15 right. So, I appreciate your cooperation in this
16 And I think we can go ahead further. We'll give you
17 two hours, you know, because we do other -- we can't
18 let --
19 MR. MICHELINI: Sure.
20 MR. DePAOLA: -- the town. We have
21 other hearings that we have to do, so, but I will
22 make sure that you get your two hours when you come
23 back again, so --
24 MR. MICHELINI: Thank you. Okay
25 Let me just go back for a moment. We had just had

1 marked A-4, which was the Whiteman mileage chart.
2 And I have an extra copy, so I'm going to hand it to
3 the chairman or to Kelly, if that's okay. But that
4 will go in the record as A-4
5 MR. DePAOLA: Thank you. Appreciate
6 that.
7 BY MR. MICHELINI:
8 Q Okay And Mr. Whiteman, is there
9 anything else from the map itself which was A-2, I
10 believe, correct --
11 A Uh-hum.
12 Q -- or is that -- Yes -- that you
13 wanted to mention?
14 A I would like to mention something
15 here, here at town hall. Because of the flood 2012,
16 it was horrible, as you know. Residents of South
17 Seaside Park, they have to travel over here for
18 building permits and they have to keep traveling
19 back and forth. We don't have anything over in
20 South Seaside Park that, a satellite building, that
21 somehow would be able to help us out with our
22 residents. We had a lot of damage, just like the
23 mainland had a lot of damage. But for us to travel
24 this distance and have to keep coming back, some of
25 our residents, and they are, they keep coming back

1 and coming back because of certain things aren't
 2 right.
 3 Again, I look at it and say, something at
 4 Seaside Park would, again, allow us to just go down
 5 the road, ride your bicycle to it. I know also
 6 myself, when I look at the fields here, when I look
 7 at the schools and I say, I still play basketball
 8 I can't play basketball in the wintertime. But, to
 9 me, to travel over to these schools to play
 10 basketball, in the -- now, with the price of gas, I
 11 look at it and I say, I just can't do it.
 12 Seaside Park is not open, so where do we go?
 13 We go up to Seaside Heights to play basketball
 14 Again, we're staying in this beach community to do
 15 these things For us to travel over here doesn't
 16 help out. I mean, South Seaside Park, Berkeley
 17 Township, they don't afford us any type of indoor
 18 facility here.
 19 MR. MCGUCKIN: Let me ask you a
 20 question. I think you just said it. But if you
 21 were part of Seaside Park, they don't have any such
 22 facility either, do they?
 23 THE WITNESS: Well, what happens in
 24 the past, people from Seaside Park, they will go to
 25 the town and request the town to open up the

1 facility for them. Being a resident of South
 2 Seaside Park, I cannot do that, okay
 3 MR. MCGUCKIN: But if you want to
 4 play in a league, you can just --
 5 THE WITNESS: They don't have a
 6 league there. It would just be pick-up games
 7 MR. MCGUCKIN: You can go to Seaside
 8 Heights now And if you move to South Seaside -- if
 9 you become part of Seaside Park, you would still go
 10 to Seaside Heights?
 11 THE WITNESS: Well, I would, if I
 12 become part of Seaside Park, I would definitely get
 13 the recrea -- you got a school there that's not
 14 open. Let's open it up for recreation. Let's open
 15 it up for residents of -- if we become part of that,
 16 let's open it up for the residents there.
 17 MR. MCGUCKIN: As of today --
 18 THE WITNESS: Yes
 19 MR. MCGUCKIN: -- if you were part of
 20 Seaside Park --
 21 THE WITNESS: Yes
 22 MR. MCGUCKIN: -- and you wanted to
 23 play in a men's recreational basketball league --
 24 THE WITNESS: Right.
 25 MR. MCGUCKIN: -- you would have to

1 go to Seaside Heights?
 2 THE WITNESS: No, I would go to
 3 Seaside Park and request that we have the school
 4 open.
 5 MR. MCGUCKIN: They don't have one.
 6 You said before, they don't have one currently
 7 THE WITNESS: No, they have a school
 8 there with baskets.
 9 MR. MCGUCKIN: Mr Whiteman, we're
 10 going to be here a lot longer than two and a half
 11 hours every night.
 12 THE WITNESS: No, I don't know
 13 MR. MCGUCKIN: This is a fairly
 14 simple question. I really believe it's fairly
 15 simple. As of today, Seaside Park does not have a
 16 men's recreation basketball?
 17 THE WITNESS: Yes
 18 MR. MCGUCKIN: Berkeley Township
 19 does?
 20 THE WITNESS: Yes
 21 MR. MCGUCKIN: And you, as a resident
 22 of Berkeley Township today have a right to
 23 participate in that recreation program but it's far
 24 from you --
 25 THE WITNESS: Yes

1 MR. MCGUCKIN: -- as far as you're
 2 concerned, so you play in Seaside Heights?
 3 THE WITNESS: Yes, I've gone to
 4 Seaside Heights
 5 MR. MCGUCKIN: And if you become part
 6 of Seaside Park today, you would still go to Seaside
 7 Heights to play in the men's recreation league,
 8 correct?
 9 THE WITNESS: If we become part of
 10 Seaside Park?
 11 MR. MCGUCKIN: If you were part of it
 12 today?
 13 THE WITNESS: No, I would go petition
 14 and go to Seaside --
 15 MR. DePAOLA: That's not what he's --
 16 MR. MCGUCKIN: That's all right. We
 17 got the answer Thank you.
 18 THE WITNESS: I don't know what's so
 19 hard about that.
 20 MR. MICHELINI: It's all right. It's
 21 just, you guys are misunderstanding each other
 22 THE WITNESS: I'm misunderstanding
 23 what you're saying
 24 MR. MICHELINI: Okay It's fine
 25 It's fine. We understand the question and --

1 MR. DePAOLA: Thank you. Thank you.
 2 Go on.
 3 A Something else. You know, my town
 4 doesn't have, South Seaside Park, where are the
 5 tennis courts You know, we have a lot of seniors
 6 in my town. You know, some of us are active still
 7 We like to play tennis I can travel over to
 8 Veterans Park, again, for paying gas and tolls. To
 9 me, I would rather say, well, don't we have any
 10 facility here in South Seaside Park? And we don't
 11 have any facility in South Seaside Park for
 12 recreation to play tennis there.
 13 MR. WISER: Is there tennis in
 14 Seaside Park?
 15 THE WITNESS: There are tennis courts
 16 in Seaside Park.
 17 MR. WISER: And can you avail
 18 yourselves of those tennis courts?
 19 THE WITNESS: I have to have a badge.
 20 I have to pay --
 21 MR. WISER: So, you have to be a
 22 resident of Seaside --
 23 THE WITNESS: I would have to get a
 24 beach badge to play on the tennis courts in Seaside
 25 Park.

1 MR. WISER: And is that -- are you
 2 able to do that as a resident of Berkeley Township?
 3 THE WITNESS: If I -- resident of
 4 Berkeley Township, if I buy a beach badge, I can go
 5 to their beach, as well as I can use the tennis
 6 court there in Seaside Park.
 7 MR. WISER: And if you were part of
 8 Seaside Park, would you similarly have to buy a
 9 beach badge?
 10 THE WITNESS: I would have to buy a
 11 beach badge.
 12 MR. WISER: So, that doesn't change?
 13 THE WITNESS: That would not change,
 14 right.
 15 MR. WISER: Is there a differential
 16 in price between you doing it as a resident of
 17 Berkeley or as a resident of Seaside Park?
 18 THE WITNESS: All badges for the
 19 beaches have to be the same price for residents and
 20 non-residents You cannot make a differential
 21 between --
 22 MR. WISER: So, that tennis situation
 23 would not change at all if the de-annexation were to
 24 go through?
 25 THE WITNESS: I would still be using

1 Seaside Park, yes
 2 MR. WISER: Okay Thank you.
 3 BY MR. MICHELINI:
 4 Q So, the point is is that you identify
 5 your recreational activities --
 6 A Yes
 7 Q -- with those in Seaside Park --
 8 A Yes.
 9 Q -- and that's where you go for
 10 them --
 11 A Yes.
 12 Q -- correct?
 13 A Because it's just --
 14 Q That's the community in which you
 15 live --
 16 A Yes
 17 Q -- even though you actually live in
 18 Berkeley Township?
 19 A Yes
 20 Q When you do things like play tennis
 21 or play basketball, you do them either in
 22 Seaside Park or Seaside Heights, in communities that
 23 are close to you --
 24 A Yes
 25 Q -- because Berkeley Township is so

1 remote?
 2 A Yes
 3 Q So, you find your community closer to
 4 you?
 5 A Yes
 6 Q Correct?
 7 A Yes
 8 Q I understand. Thank you.
 9 A I find out that Berkeley Township
 10 just doesn't have any type of facility for
 11 recreation for me playing tennis or indoor
 12 basketball down where we are.
 13 Q What about a baseball field, if
 14 there's kids that want to play on a baseball field
 15 and they live in South Seaside Park, where would
 16 they go for that?
 17 A Again, they would have to go into
 18 Seaside Park, you know, or they can go over and
 19 travel to Berkeley again, which is the distance to
 20 the fields
 21 Q Is there a field that kids could just
 22 walk onto and play in Seaside Park?
 23 A The field in Seaside Park is on 14th
 24 Avenue, which is the street right next to South
 25 Seaside Park. Again, it's on 13th and 14th. And

1 that is as close as you can come to South Seaside
 2 Park, as close as you can come to the field. It's
 3 walkable.
 4 Q So, the people from South Seaside
 5 Park, the kids that want to play ball would go to
 6 that park? They wouldn't come all the way over into
 7 Berkeley Township?
 8 A No, they would not. They would --
 9 they would travel to a local park and be at the
 10 local park.
 11 Q Are you aware of anybody from
 12 Berkeley Township traveling over to South Seaside
 13 Park to avail itself of tennis courts? They can't
 14 do that, right?
 15 A No, they can't.
 16 Q Because there are none, right?
 17 A There's none, no.
 18 Q Are you aware of anybody from
 19 Berkeley Township traveling from Berkeley Township
 20 over to South Seaside Park to play basketball
 21 indoors?
 22 A No.
 23 Q Because they can't do it, right?
 24 There are no basketball --
 25 A They can't do it. We don't -- we

1 have no basketball facilities
 2 Q Okay Are you aware of anybody from
 3 Berkeley Township, men, children, teens, traveling
 4 from Berkeley Township over to South Seaside Park to
 5 play baseball?
 6 A We don't have any field in South
 7 Seaside Park, no.
 8 Q So, they couldn't do it?
 9 A Right.
 10 Q So, the communities are really quite
 11 separate, are they not?
 12 A The communities are very separate.
 13 MR. DePAOLA: Yes
 14 MR. WISER: Are you aware, using the
 15 same phraseology, of people from Berkeley traveling
 16 over to Seaside Park to avail themselves of any
 17 other recreation?
 18 THE WITNESS: I am -- Seaside Park or
 19 South Seaside Park?
 20 MR. WISER: I'm sorry South Seaside
 21 Park. I apologize.
 22 THE WITNESS: Okay Yes, I do know
 23 of one item that does occur
 24 MR. WISER: Which is it?
 25 THE WITNESS: Okay That is, they

1 bring the Berkeley rec over to the beach, I believe
 2 it's one day a week during the summertime or two
 3 days -- one day a week, to use the ocean beach.
 4 MR. WISER: In terms of the same
 5 question for individuals going over, I would assume
 6 then individuals from Berkeley, not part of a formal
 7 rec program, but go to the beach --
 8 THE WITNESS: Yes
 9 MR. WISER: -- in Seaside Park?
 10 THE WITNESS: No, they go to the
 11 beach in South Seaside Park. They go to the beach
 12 in South Seaside --
 13 MR. WISER: I'm sorry I keep making
 14 that mistake. I apologize. So, they do avail
 15 themselves of that recreational opportunity?
 16 THE WITNESS: Yes
 17 MR. WISER: Okay Thank you.
 18 BY MR. MICHELINI:
 19 Q And on the beach issue, how long is
 20 Island Beach State Park?
 21 A Island Beach State Park is
 22 approximately eight and a half miles from the inlet
 23 to the park entrance.
 24 Q And so, if this -- how long is the
 25 beach in South Seaside Park?

1 A South Seaside Park's beach is
 2 under -- under 400 meters
 3 Q Okay
 4 A Just under 400 meters
 5 Q If the town of Berkeley Township were
 6 to leave -- lose that beach of under 400 meters,
 7 there would still be eight and a half miles of
 8 public beach that would be accessible to them in the
 9 state park within the Township of Berkeley, correct?
 10 A That is correct.
 11 Q And in addition to that, Berkeley
 12 Township on the bay side has bay beaches, do they
 13 not?
 14 A They do have bay beaches, yes, they
 15 do.
 16 Q Can you identify them?
 17 A In Berkeley Township?
 18 Q If you know
 19 A I'm not really familiar with the bay
 20 beaches, except the county park down here. Someone
 21 else you talk about bay beach --
 22 Q Somebody else is going to talk about
 23 parks --
 24 A Someone else will talk about the
 25 parks --

1 Q -- and those things?
 2 A -- and beaches, yes.
 3 MR. MICHELINI: Okay All right.
 4 MR. MCGUCKIN: On that issue of
 5 Island Beach State Park.
 6 THE WITNESS: Yes
 7 MR. MCGUCKIN: You say there's 400
 8 meters of beach in South Seaside Park?
 9 THE WITNESS: That is public township
 10 beach, yes
 11 MR. MCGUCKIN: And in response to
 12 Mr Michelini's question, you said that there's
 13 Island Beach State Park --
 14 THE WITNESS: Yes
 15 MR. MCGUCKIN: -- that residents can
 16 go to --
 17 THE WITNESS: Yes
 18 MR. MCGUCKIN: -- if this was part of
 19 Seaside Park?
 20 THE WITNESS: Not Island Beach State
 21 Park, no.
 22 MR. MICHELINI: No. I'm saying they
 23 can go to Island Beach State Park any time they
 24 want.
 25 MR. MCGUCKIN: And they can do that

1 today?
 2 MR. MICHELINI: That's correct.
 3 THE WITNESS: They can do that today
 4 MR. MCGUCKIN: They can do it whether
 5 this is part of Seaside Park or not?
 6 MR. MICHELINI: Correct.
 7 THE WITNESS: Yes
 8 MR. MCGUCKIN: And the question,
 9 though, is, these beaches at Island Beach State
 10 Park, particularly in the summer, fill up?
 11 THE WITNESS: Um --
 12 MR. MCGUCKIN: They're closed on many
 13 occasions? Usually every Saturday and Sunday in
 14 good weather in the summertime, correct?
 15 MR. DePAOLA: Yes
 16 THE WITNESS: The --
 17 MR. MCGUCKIN: Let him answer
 18 THE WITNESS: The beaches in Island
 19 Beach State Park are free. So, what happens, that
 20 being a free beach --
 21 VOICE: No.
 22 MR. DePAOLA: No, no They're never
 23 free.
 24 MR. MCGUCKIN: Let him finish.
 25 THE WITNESS: Let me finish, please.

1 Let me finish.
 2 MR. MCGUCKIN: Mr Whiteman, is it
 3 your testimony that the beaches in Island Beach
 4 State Park are free?
 5 THE WITNESS: The beaches in Island
 6 Beach State Park are free. You are paying for
 7 parking. I called up the State. I questioned the
 8 State on that. And the State of New Jersey said to
 9 me, we do not charge to get on the beach. You're
 10 paying for parking
 11 MR. MCGUCKIN: Is there any way to
 12 get to the beach without paying for parking in
 13 Island Beach State Park if you're a senior citizen
 14 or resident of Holiday City?
 15 THE WITNESS: Yes, it's free beach
 16 for any senior citizen.
 17 MR. MCGUCKIN: But to get there, you
 18 have to pay for parking?
 19 THE WITNESS: No, you don't. There
 20 are other areas that --
 21 MR. MCGUCKIN: My question is --
 22 THE WITNESS: -- you can -- may I
 23 finish? There are other areas that you can park,
 24 all right, which are not throughout the whole park
 25 you can -- you can park. Any senior going into the

1 park will not pay any money to enter the park.
 2 Because anyone 62 and older is a free beach and free
 3 parking
 4 MR. MCGUCKIN: If the beach fills
 5 up --
 6 THE WITNESS: Uh-hum.
 7 MR. MCGUCKIN: -- they can't get in
 8 there, correct?
 9 THE WITNESS: If the beach fills up,
 10 they cannot.
 11 MR. MCGUCKIN: And there's no such
 12 restriction on the Berkeley Township beaches in
 13 South Seaside Park, correct?
 14 THE WITNESS: Well, there's a parking
 15 issue in South Seaside Park.
 16 MR. MCGUCKIN: I don't doubt that
 17 there's a parking issue. But the beaches are
 18 never -- you never have refused access to the
 19 beaches in Berkeley Township, in South Seaside Park?
 20 THE WITNESS: You won't be --
 21 again --
 22 MR. MCGUCKIN: Mr Whiteman, we're --
 23 this is going to take about three years
 24 MR. MICHELINI: Well, let him
 25 explain.

1 MR. MCGUCKIN: No, it's a simple
 2 question. You're not going to explain a question
 3 that is very simple.
 4 MR. DePAOLA: It's a yes or no
 5 answer
 6 MR. MCGUCKIN: It really was
 7 THE WITNESS: No, it's not a yes or
 8 no answer
 9 MR. MCGUCKIN: I'm going to rephrase
 10 it so it is, okay
 11 Does Berkeley Township prohibit
 12 anyone from going to their beach on a Saturday or
 13 Sunday in the summertime during good weather?
 14 THE WITNESS: That's a lot better
 15 No, they don't. Just parking prohibits people from
 16 going to the beach in South Seaside Park.
 17 MR. MCGUCKIN: Unless five people
 18 come in one car? Unless they find a place to park.
 19 But the answer to --
 20 THE WITNESS: That is --
 21 MR. MCGUCKIN: -- my question is, no,
 22 they don't close?
 23 THE WITNESS: Right. And what
 24 happens, people from --
 25 MR. MCGUCKIN: Sir, please. He can

1 ask you a question. You answered mine.
 2 MR. MICHELINI: Well, he'd like to --
 3 THE WITNESS: I want to finish
 4 answering
 5 MR. MICHELINI: -- follow up and give
 6 the board information.
 7 MR. MCGUCKIN: Mr. Michelini, when
 8 I'm finished asking my questions
 9 THE WITNESS: Okay
 10 MR. MCGUCKIN: So, Island Beach State
 11 Park could close?
 12 THE WITNESS: Right.
 13 MR. MCGUCKIN: But Berkeley
 14 Township's beaches do not?
 15 THE WITNESS: Correct.
 16 MR. MCGUCKIN: And it costs money to
 17 go to Island Beach State Park. Do you know what the
 18 cost is?
 19 THE WITNESS: Yes
 20 MR. MCGUCKIN: How much?
 21 THE WITNESS: \$10 a car \$8 during
 22 the wintertime.
 23 MR. MCGUCKIN: Each time you go?
 24 THE WITNESS: Each time you go, yes
 25 MR. MCGUCKIN: And how much is a

1 beach badge for the beaches in Berkeley Township for
 2 Berkeley Township residents?
 3 THE WITNESS: Berkeley Township
 4 residents, I believe, is 30, I want to say, \$35
 5 MR. MCGUCKIN: For the entire season?
 6 THE WITNESS: For the entire season,
 7 yes.
 8 MR. MCGUCKIN: Thank you.
 9 MR. WISER: And is there a discount
 10 for seniors with those beach badges?
 11 THE WITNESS: Beach badges are free
 12 for seniors, as Island Beach State Park is free for
 13 seniors
 14 BY MR. MICHELINI:
 15 Q So, what did you want to say when
 16 Mr McGuckin was asking you questions and you
 17 attempted to answer?
 18 A Two things Normally, residents from
 19 the mainland come over, a lot of times, what
 20 happens, they're over on the beach early They're
 21 able to get into Island Beach State Park. Those who
 22 are coming down from North Jersey down the Parkway,
 23 because of the loads of traffic, the park closes at
 24 11 and 12 o'clock during the day, where individuals
 25 who come from the mainland are able to get into

1 Island Beach State Park is what I wanted to say
 2 Q And what is the parking issue in
 3 South Seaside Park that prevents people from getting
 4 on the public beach there?
 5 A Well, what -- what happens is, the
 6 roads that are east of Central Avenue, you have to
 7 park by permit only Which means, no one can park
 8 there unless you have a permit. So, that causes all
 9 the cars to be going down the side streets, Barnegat
 10 Avenue, and towards the bay, which, again, causes a
 11 huge problem with parking for individuals trying to
 12 find parking And what happens, we've had numerous
 13 complaints from residents who complain that people
 14 are parking in driveways, people are parking --
 15 double parking on property and parking on private
 16 property
 17 Q And when the park is full, are the --
 18 in your experience as a, living in South Seaside
 19 Park all these years, are those spots for the public
 20 beach also usually full at that time?
 21 A What happens -- you're talking about
 22 Island Beach State Park or --
 23 Q Yeah. When Island Beach State Park
 24 is full, is the South Seaside Park public beach
 25 usually also full at that time?

1 A Yes What happens is, once the
2 Island Beach State Park fills up, the traffic and
3 parking --
4 MR. DePAOLA: I'm sorry
5 A -- in South Seaside Park fills up
6 also.
7 MR. DePAOLA: I'm sorry I don't
8 mean to interrupt. Could you please speak into the
9 mike. Thank you. Some of the people in the back
10 can't hear you.
11 A When the traffic is -- Island Beach
12 State Park is full, then what happens is, we have a
13 big flow of parking and beach usage in the South
14 Seaside Park beaches
15 MR. DePAOLA: All right. Question.
16 MR. WINWARD: I have a question,
17 though. I'm confused about something, though. Are
18 these people clogging up your streets, are they
19 Berkeley residents?
20 THE WITNESS: Normally, what happens
21 they aren't Berkeley residents
22 MR. WINWARD: Would that change after
23 de-annexation? To me, it doesn't sound like that
24 has anything to do with it.
25 MR. MICHELINI: Well, it has this --

1 the point --
2 MR. DePAOLA: Can you speak into the
3 mike, please? Thank you.
4 MR. MICHELINI: Yeah. I think my
5 voice is loud enough to carry But I think the
6 point is is that it's a very small area of beach
7 that is going -- that if the de-annexation was
8 granted, it's a very small area of beach that's
9 actually very difficult to manage because of the
10 parking issues, because of the problems
11 What Berkeley would be losing is a
12 very little area of beach that is overwrought with
13 issues That's really what's being said. And there
14 is the park. And, yes, the park does fill up. We
15 know that. By the way, you can still get in the
16 park when it's full if you're on a bicycle or you
17 walk in.
18 MR. WINWARD: Or a boat.
19 MR. MICHELINI: Or a boat, kayak.
20 You got to go your two miles across the bay But
21 you can walk in. You can bike it. And there are
22 literally hundreds of people that do that. You see
23 them all the time Especially on bikes So, just
24 by way of --
25 MR. McGUICKIN: Something that was

1 just said is troubling me because I'm having a hard
2 time understanding Is it the petitioner's
3 understanding that if this de-annexation goes
4 forward that those beaches will not be owned by
5 Berkeley Township?
6 MR. MICHELINI: The beaches?
7 MR. McGUICKIN: Yes, the beaches
8 themselves
9 MR. MICHELINI: If South Seaside Park
10 becomes part of Seaside Park, then I believe those
11 beaches would also become part of Seaside Park.
12 MR. McGUICKIN: Aren't they owned by
13 Berkeley Township?
14 MR. MICHELINI: I believe that they
15 would go. Now, if the law is different than that,
16 you know, I'd be glad to discuss that with you. But
17 I think that they would go.
18 If you look at all the cases that
19 involve beach area -- we can have this discussion
20 another time, because we should look at it -- but I
21 believe that the beaches go with the area in terms
22 of de-annexation.
23 MR. McGUICKIN: It was my
24 understanding of the statutes that public
25 facilities are still owned by the public entity

1 that --
2 MR. MICHELINI: I'm just relying upon
3 the cases in this area of the law And, you know,
4 we can have that discussion.
5 VOICE: I think we want to hear that
6 discussion.
7 MR. MICHELINI: Yeah.
8 MR. McGUICKIN: Okay
9 MR. DePAOLA: I have a question. So,
10 we don't know for sure?
11 MR. MICHELINI: Well, it's my
12 position that those beaches would become part of
13 Seaside Park. I mean, if --
14 MR. DePAOLA: But you're not sure?
15 MR. MICHELINI: What I'm saying is
16 that all the case law says that. That's my
17 position. Now --
18 MR. McGUICKIN: I don't know if that's
19 the case.
20 MR. MICHELINI: -- Mr McGuckin is
21 relying upon a statute. Maybe there's some issues
22 to discuss is what I'm saying We can discuss --
23 look, we're going to be here for months We'll work
24 it out. We'll figure that out That's an issue
25 we'll figure out among the lawyers without taking

1 time.
 2 MR. DePAOLA: Okay Can you
 3 continue, please?
 4 MR. MICHELINI: All right.
 5 BY MR. MICHELINI:
 6 Q Now, at this point, Mr Whiteman
 7 we're at 8:30 Is there anything else on this
 8 particular, either traveling distance or the
 9 beaches, without going into a new area such as lack
 10 of services, because I understood from Mr McGuckin
 11 this is when you want to cut it, right?
 12 MR. McGUCKIN: Yeah.
 13 Q Okay So, rather than going into a
 14 new area, is there anything else that you want to
 15 say about the areas in which you already testified?
 16 A Just everything here I want you to --
 17 thank you.
 18 Q Thank you.
 19 A Oh, my word. Just to let you
 20 understand that --
 21 MR. DePAOLA: Thank you.
 22 A I think you see it also, the amount
 23 of travel time that we have to go through, because
 24 we're isolated. I know you brought up about the
 25 golf situation and you're going to pay more money

1 But the money you save on gas going from Berkeley as
 2 opposed to Toms River, you save money also in tolls.
 3 So, it, like, outweighs one to the other
 4 So, again, looking at the map here,
 5 everything I see on this map I think I did cover I
 6 just want you to zero in real quick on the purple
 7 and notice that where we are isolated here, the
 8 facilities are at the lowest section and almost at
 9 an area that is the furthest you can be from the
 10 town, okay
 11 Q And just one quick question about
 12 that. If you were to travel from South Seaside Park
 13 to the facilities at the lower end, how many towns
 14 and what towns would you travel through?
 15 A Again, being a local, I didn't
 16 realize this, but believe it not, you are traveling
 17 through Seaside Park, Seaside Heights You're
 18 traveling also through Toms River And some of you
 19 don't know this, but there's a little bit of Island
 20 Heights that touches Route 37 And if you're
 21 driving down 37, you'll see Island Heights police
 22 pull people over, because there's a little section
 23 here. From there you would go through South Toms
 24 River You'd go by Beachwood. And you'd go past
 25 Pine Beach. So, it is a lot of towns that you do go

1 through there.
 2 If you take a look at the orange, that is
 3 your Route Nine corridor So, when we talk about
 4 going up here, this has gone through Toms River,
 5 through Washington Street and back down here.
 6 There's probably, I think you know, four ways, five
 7 ways to get to this section of town. I find out
 8 that this is probably the quickest way to go to the
 9 different areas where we go for, again, the places
 10 that we have to go to in Berkeley Township.
 11 MR. MICHELINI: All right. Thank
 12 you. I'll stop the testimony right here.
 13 I just want to thank the audience.
 14 It's difficult when you have this number of people.
 15 Everybody behaved very well tonight.
 16 MR. DePAOLA: Yes
 17 MR. MICHELINI: And I want to thank
 18 the audience and also thank the board for your time
 19 and patience.
 20 MR. GINGRICH: One question before
 21 you go. From the way that you have brought this all
 22 tonight, am I to assume that if this were to happen,
 23 you're going to go on that side of the bridge and
 24 that's where you're going to always be? You're
 25 never coming on this side of the bridge? That's

1 what it sounds like.
 2 THE WITNESS: You know, we're a beach
 3 community, okay
 4 MR. GINGRICH: That's not -- I'm just
 5 saying --
 6 THE WITNESS: Yes
 7 MR. GINGRICH: You're going to be on
 8 that side, you're never coming across the bridge
 9 again?
 10 THE WITNESS: I go shopping in Toms
 11 River
 12 MR. GINGRICH: Okay There we go.
 13 That's just --
 14 MR. MICHELINI: But Toms River, the
 15 point is, Toms River is still closer than Berkeley
 16 THE WITNESS: Yeah.
 17 MR. MICHELINI: Okay It's still
 18 closer than Berkeley So, they're more identified
 19 with the beach and the mainland areas that are
 20 closer to where they are and identify --
 21 MR. GINGRICH: We all go. We all go
 22 to that side of Toms River to go shopping where the
 23 big stores are.
 24 MR. MICHELINI: I'm just telling you.
 25 If you're over on the beach, you either go to the

1 beach areas, or if you have to go to the mainland
 2 for things, you go to Toms River You don't go into
 3 Berkeley, not typically You don't go into South
 4 Seaside --
 5 MR. GINGRICH: No, you go to Toms
 6 River, exactly You don't come down in here to
 7 Berkeley That's -- thank you very much.
 8 THE WITNESS: All right. I'd like to
 9 thank you also. Again, I think the meeting -- and I
 10 want to thank you guys, how everything went also.
 11 You know, I appreciate it.
 12 MR. DePAOLA: I just, I notice you
 13 have, you know, it's insignificant and I understand
 14 that, but I just, Ocean County, for my own
 15 edification, the Ocean County Library, and I
 16 understand, there is no closer library I mean, if
 17 you wanted to go to a library, you would come to
 18 the --
 19 THE WITNESS: Lavallette.
 20 MR. MICHELINI: Northern Shores
 21 THE WITNESS: Northern Shores, yes.
 22 MR. DePAOLA: That's what I'm --
 23 MR. MICHELINI: Yeah.
 24 MR. DePAOLA: Because I know --
 25 THE WITNESS: You can understand.

1 You can see -- pardon me.
 2 MR. MICHELINI: Yes, the point is
 3 that if you wanted to go to the library in Berkeley,
 4 he'd have to go that great distance. They're not
 5 doing that. They're going to Northern Shores Or
 6 if they can't get something in Northern Shores,
 7 they're going downtown Toms River, to the big
 8 branch. But they're not going all the way down to
 9 Berkeley And the people in Berkeley aren't going
 10 over to Northern Shores
 11 MR. McGUICKIN: But whether the
 12 de-annexation occurs or not, that would still be the
 13 same case. It's a community operated --
 14 MR. MICHELINI: That would be the
 15 same, correct. But the point is is that the
 16 communities are separate and identified separately
 17 Socially, they are different and they are -- you
 18 know, that's important under the cases
 19 MR. McGUICKIN: I understand. We'll
 20 address that when we get there.
 21 MR. DePAOLA: Yeah, we're going to
 22 address that. But I just want you, for edification,
 23 is that the people in Holiday City, they don't go to
 24 the 30 Station Road in Bayville either They go to
 25 the Toms River County Library So I just thought --

1 MR. MICHELINI: Well, they're
 2 certainly not going to Northern Shores --
 3 MR. DePAOLA: Yeah. No.
 4 MR. MICHELINI: -- which is where the
 5 people in South Seaside Park are going to go first.
 6 MR. DePAOLA: Okay Thank you.
 7 MR. MICHELINI: I'd stipulate to
 8 that.
 9 MR. DePAOLA: Yeah.
 10 MR. McGUICKIN: So, for purposes of
 11 the public and whoever's here, the next meeting on
 12 this will be held on February 8th -- February 5,
 13 excuse me. February 5. And it will be tentatively
 14 six p.m. depending on what other agenda --
 15 MR. MICHELINI: Right.
 16 MR. McGUICKIN: -- the township -- the
 17 board has. And we'll discuss that with Mr
 18 Micheleni when the agenda --
 19 MR. MICHELINI: Right. Just so the
 20 public knows, if there's other applications, they're
 21 most likely going to be heard before this one
 22 because they want to hear this in a two hour block.
 23 So, I will try to get word out. Mr McGuckin and I
 24 will talk. And in spite of his acrimonious nature,
 25 we'll get along I'm teasing him. No, we'll work

1 that out. And then we'll get word out to the
 2 members of the public as best we can.
 3 MR. DePAOLA: But that's his M.O.
 4 VOICE: Yeah, yeah.
 5 MR. MICHELINI: We go back a long
 6 way, so it's good. All right. Thank you.
 7 MR. DePAOLA: I just want to thank
 8 you for your cooperation and the testimony was -- I
 9 had no problem with the testimony But, you know, I
 10 learned a lot also myself
 11 MR. MICHELINI: Thank you.
 12 MR. DePAOLA: I appreciate --
 13 THE WITNESS: I can still go if you'd
 14 like.
 15 MR. MICHELINI: Have a nice evening
 16 MR. DePAOLA: Yeah, you, too.
 17 (Matter adjourned.)
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