
NEW JERSEY DEPARTMENT OF COMMUNITY AFFAIRS
LOCAL FINANCE BOARD

December 13, 2023

Oral sworn testimony in the
above-captioned matter taken via remote
videoconference before LISA F. PENROD, Certified
Court Reporter (XI01753) and Registered Professional
Reporter, on the above date, commencing at 10:55
a.m., there being present:

1 A P P E A R A N C E S:

2 Jacquelyn Suarez, Chairwoman

Alan Avery

3 Adrian Mapp

Dominick Di Rocco

4 William Close

Idida Rodriguez

5 Nicholas Bennett

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APPLI CATIONS

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HUDSON COUNTY IMPROVEMENT AUTHORITY

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PATERSON PARKING AUTHORITY

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RI CHARD PHOENIX v.

BOROUGH OF NORTH PLAINFIELD

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1 MS. SUAREZ: Okay. So good morning,
2 everyone.

3 The first matter before the board is
4 going to be last month's meeting minutes. I'm going
5 to ask for a motion to adopt the November 8, 2023,
6 minutes as submitted.

7 MR. CLOSE: So moved.

8 MS. RODRIGUEZ: So moved.

9 MR. BENNETT: I heard Mr. Close
10 moving.

11 Ms. Rodriguez, did you second?

12 MS. RODRIGUEZ: Uh-huh.

13 MR. BENNETT: Ms. Suarez.

14 MS. SUAREZ: Yes.

15 MR. BENNETT: Mr. Di Rocco.

16 MR. Di ROCCO: Yes.

17 MR. BENNETT: Mr. Close.

18 MR. CLOSE: Yes.

19 MR. BENNETT: And Ms. Rodriguez.

20 MS. RODRIGUEZ: Yes.

21 MR. BENNETT: Motion approved.

22 MS. SUAREZ: We're going to move on to
23 applications.

24 I'm just going to remind everyone,
25 board members, applicants and members of the public

1 who have joined us to just please remain muted to
2 eliminate any unnecessary background noise.

3 If you're appearing by phone, option
4 star six should help to mute and unmute the call.

5 Just a friendly reminder, as
6 applicants appear to testify, please just make sure
7 that your camera is on and that you speak up when
8 your application is called so that your image will
9 populate for us on the screen which will then permit
10 us to get your sworn in prior to testifying.

11 The first applicant that is on our
12 agenda is the Piscataway Township Fire District
13 Number 3 which has withdrawn its application. So
14 therefore, we're going to move on to the second
15 application, which is the Hudson County Improvement
16 Authority.

17 MR. LANGHART: Good morning, Director.
18 Good morning, Nick.

19 MS. SUAREZ: Good morning, Mr.
20 Langhart.

21 MR. LANGHART: I'll be presenting this
22 applicant for the ACIA. If you want to take a
23 second to swear everybody in, that would be great.

24 I anticipate -- it's hard for me to
25 see who's on. I think we'll have Mike Hanley and

1 Tim Eismeier from NW, County Administrator, Abe
2 Antun, and Everett Johnson, county bond counsel,
3 Kurt Cherry, Michael Connor from the ACIA, perhaps
4 Norm McGuera, and Marilyn Cintron who leads one of
5 the organizations for the tenants in the building
6 we'll be talking about. If I missed everyone, I
7 apologize.

8 MS. SUAREZ: Wonderful.

9 So if everybody can maybe just quickly
10 say their first names so that way we can see you
11 actually appear on our screen and then we'll get you
12 sworn in for testimony.

13 MR. ANTUN: Abraham Antun.

14 MR. CHERRY: Kurt Cherry.

15 MS. CONTRON: Marilyn Cintron.

16 MR. LANGHART: I don't know if we have
17 anybody from NW.

18 MS. SUAREZ: I don't see them.

19 MR. LANGHART: Okay. And I think, I
20 thought maybe -- Mr. Antun, I don't know if
21 Everett's going to join us. If not, we can probably
22 move ahead.

23 MS. CINTRON: I believe they
24 (i ndi scerni bl e).

25 MS. SUAREZ: I didn't quite make that

1 out, Ms. Cintron. What was that?

2 MS. CINTRON: I think we were told
3 earlier it was 10:40 so maybe they're thinking
4 they're coming on later.

5 MR. LANGHART: Regardless, Director, I
6 think we can probably move ahead with the
7 application with the professionals we have now.

8 MS. SUAREZ: Sure.

9 Mr. Langhart, one quick question.
10 Mr. Antunis here in what capacity?

11 MR. LANGHART: He's representing the
12 County of Hudson for the county guarantee that will
13 be on the obligations we'll be talking about.

14 MS. SUAREZ: If you want to proceed,
15 then I can have Ms. Penrod get everybody else sworn
16 in.

17 MR. LANGHART: Thank you.

18 ABRAHAM ANTUN

19 KURT CHERRY

20 MARYLYN CINTRON

21 is duly sworn by a Notary Public of the State of New
22 Jersey and testifies under oath as follows:

23 MR. LANGHART: Thank you, Director,
24 and thank you, members of the Local Finance Board
25 and all the staff for hearing our application.

1 This application is submitted on
2 behalf of the Hudson County Improvement Authority
3 pursuant to the County Improvement Authority's Law,
4 section 37A-54L, which is the financing for the
5 acquisition of property for the benefit of a
6 nonprofit, and the adjoining statute is 40:37A-80
7 for approval of a county guarantee to be issued
8 along with the bonds that we'll be talking about.

9 A description of the project is as
10 follows: The Hudson County Improvement Authority is
11 going to issue not to exceed \$13 and-a-half million
12 worth of notes initially, one-year notes, and then
13 we will, within the year, take out those notes with
14 the long-term financing through the issuance of
15 bonds.

16 The Hudson County Improvement
17 Authority will take those proceeds and they will
18 loan them to the nonprofit so that they can buy a
19 property known as 115 Christopher Columbus Drive in
20 Jersey City, and the reason the county and the
21 improvement authority have stepped up and determined
22 to take this action is because this property has
23 traditionally provided a host of professional
24 services to the members of the community, largely
25 through healthcare provisions, and I think Marilyn

1 and perhaps the county administrator can talk about
2 that as we go forward. It's been very valuable to
3 the members of the community, especially during the
4 pandemic.

5 The property location is in a very
6 desirable location. If the purchaser of the
7 building were not to buy it now, it's very likely
8 that the seller could turn around and sell this
9 property to a developer who would develop condos or
10 some other type of development that would displace
11 the current tenants and thereby cause the community
12 to lose the existing services.

13 So both the county and the improvement
14 authority think it's very important to keep the
15 building where it is and the tenants where they are.
16 We can talk about that.

17 Going back to the structure real
18 quick, the improvement authority will take the
19 proceeds from the notes and then the bonds, will
20 loan them to the purchaser of the building so that
21 they can buy the building.

22 The purchaser will then assign the
23 current existing rents in the building from the
24 tenants to the improvement authority to pay the debt
25 service.

1 Furthermore, there will be a note and
2 a mortgage executed in favor of the improvement
3 authority so that they will have title to the
4 building in case the rents are not sufficient to pay
5 the debt service.

6 Wrapped all around that is the county
7 guarantee to ensure that the bond -- the note
8 holders and then the bond holders are paid the debt
9 service for the obligations that are going to be
10 issued, and the county guarantee also had the added
11 benefit of making the marketing of the bonds and
12 notes a lot more desirable to the market.

13 We did go out and get an appraisal on
14 the property. It came in at \$12 million. Our
15 financing is not to exceed 13 and-a-half million.
16 And the current tenants have put approximately about
17 \$334,000 worth of improvements into the building so
18 they are very invested in the upkeep and the
19 maintenance of the building and keep it in a
20 functioning state.

21 That's pretty much the transaction.
22 It's pretty straightforward, and we're happy to take
23 any questions you might have from everyone we have
24 on about the transaction.

25 MS. SUAREZ: Thank you, Mr. Langhart.

1 One of the items that I thought again
2 in our pre-meeting was pretty helpful that I just
3 would like to highlight here for the board members
4 as well anyone from the public is just I think
5 highlight the commercial tenants that are currently
6 occupying the building and what would happen to
7 those tenants and the support that they provide if
8 the improvement authority didn't actually purchase
9 the building and lease it back to those tenants.

10 MR. LANGHART: Abe, do you want to
11 speak to that, or Marilyn.

12 MR. ANTUN: Go ahead, Marilyn. I
13 think you can handle that.

14 MS. CINTRON: So thank you for
15 allowing me to speak today. My name is Marilyn
16 Cintron, and for us, we've been there for, since
17 2012 and we do know that the landlord did get
18 another offer for the property. For us, it would
19 take seven to eight months to be able to relocate.

20 Alliance has provided services to the
21 community for the past 60 years. We service about
22 19,000 patients annually. Many of them are
23 uninsured or underinsured.

24 We provide, besides healthcare, we do
25 mental health. We also do oral health care. During

1 COVID, we partnered with the county to set up a
2 stepdown unit for the homeless population, which
3 we're still serving through a collaboration at the
4 warming center.

5 At that time we were able to remove
6 over 1,100 patients out of the hospital, leaving
7 those that are most sick able to be hospitalized, as
8 the homeless individuals were not able to be
9 released because they couldn't self-isolate
10 obviously because they wouldn't have a place to go.

11 So the county partnered with us to do
12 that setup in very short timeframe, and since then
13 we've built a rapport with the homeless population.

14 We also have the V.A. clinic there,
15 that's located there that serves the Veterans
16 Association, and there's a couple of mail order
17 places and customs in terms of the building, but
18 there's about four to 500 people that enter that
19 building daily, and for us, it would be critical to
20 stay in that place because we know for a fact that
21 the other buyer would indeed make that another
22 residential location.

23 MS. SUAREZ: Thank you.

24 And can we just maybe get like a quick
25 flavor of some of the other tenants that are

1 currently present in the building.

2 MS. CINTRON: Yeah. So the V.A. We
3 have also some -- an ankle and a podiatrist. We
4 also have customs as well as -- I put a list
5 together. Hold on.

6 A mail service. AT&T has a tower
7 there as well for internet. We also have
8 podiatrist, a med spa that does nutritional
9 infusions, Liberty PT as well.

10 So it's about 15 other -- 14 other
11 tenants.

12 MS. SUAREZ: Thank you.

13 Those are the questions that I have.
14 I will open it up to see if the board members or if
15 anyone from the public has any questions or comments
16 they'd like to raise.

17 Okay. Well, then, hearing none, do we
18 have a motion to issue positive findings?

19 MS. RODRIGUEZ: I make the motion.

20 MR. Di ROCCO: I'll second it.

21 MR. BENNETT: I have Ms. Rodriguez
22 moving, Mr. Di Rocco seconding.

23 Ms. Suarez.

24 MS. SUAREZ: Yes.

25 MR. BENNETT: Mr. Di Rocco.

1 MR. Di ROCCO: Yes.

2 MR. BENNETT: Mr. Close.

3 MR. CLOSE: Yes.

4 MR. BENNETT: And Ms. Rodriguez.

5 MS. RODRIGUEZ: Yes.

6 MR. BENNETT: Motion approved.

7 MR. LANGHART: Thank you very much.

8 We appreciate it.

9 MS. SUAREZ: You're welcome. Good
10 luck with the project as it moves forward.

11 MS. RODRIGUEZ: Good luck.

12 MS. SUAREZ: Okay. Then the next
13 applicant appearing before the board today is the
14 City of Paterson Parking Authority.

15 I think, Mr. Langhart, you're sticking
16 around for this one?

17 MR. LANGHART: I am. Yes. You're
18 stuck with me again.

19 MS. SUAREZ: And then I see Senator
20 Pou is with us. I believe Mr. Nissen is on this one
21 as well. I see him.

22 And is there anybody else?

23 MR. LANGHART: I don't know if Tony
24 Perez is on, Senator. I know he's under the
25 weather.

1 MS. SUAREZ: Senator, you're muted.

2 MS. POU: Forgive me. So sorry.

3 Unfortunately, Mr. Perez, the
4 executive director, is really not feeling well
5 today. He's unable to join us, but I believe that
6 the parties that are here might be able to respond
7 to all the questions hopefully that any one of you
8 may have.

9 Thank you for the opportunity to come
10 before you.

11 MS. SUAREZ: Of course.

12 Okay. So then Mr. Langhart, that
13 rounds everybody up. I think we can get them sworn
14 in and then we can proceed with the application.

15 PAUL NISSEN

16 NELLIE POU

17 is duly sworn by a Notary Public of the State of New
18 Jersey and testifies under oath as follows:

19 MR. LANGHART: Thank you.

20 So Director, members of the board, I
21 think the first thing I want to start with is this
22 is an application that has been previously approved
23 at the beginning of last year. The only difference
24 is when we were approved last year, we had a not to
25 exceed amount of 48 million. We're now up to 60

1 million.

2 And just as a reminder, the whole
3 point of this application is to build a new garage
4 in the City of Paterson on Ward Street. The
5 existing garage has been demolished. The lot's been
6 cleaned. So right now it's vacant.

7 The old garage that had been there was
8 important to the parking authority in terms of
9 revenue and parking services within the city. The
10 new one is equally as important, if not more.

11 We project the cost of the garage to
12 be about 32 million, and everything I'm talking
13 about is really geared towards getting the financing
14 for that 32 million to construct this new garage.

15 The way we're going to do it is we're
16 going to issue three series of bonds. The first
17 series of bonds are typical parking revenue bonds
18 and they'll be issued by the authority.

19 They come at a cost to the authority.
20 The authority pays these bonds back from the
21 revenues of the authority. So the amount that we
22 issue becomes debt of the authority and it's paid
23 before by the rate payers. That comes at a cost of
24 the authority.

25 When we came before you last year, we

1 had a cost of approximately 12 million for these,
2 I'll call them the Series A bonds, the parking
3 revenue bonds.

4 It's gone up slightly to a little bit
5 above 12 million now, we're projecting, 12,080,000.
6 So there's not much change there.

7 These are the bonds the parking
8 authority will issue, take the proceeds, put it in a
9 project fund and use it to construct the garage.

10 The Series B bonds are tax credit
11 bonds. They're a little bit of a different animal.

12 When we came before you last year, we
13 had 28 and-a-half million dollars worth of tax
14 credits on the EDA that we can monetize to a tax
15 credit provider at 90 and-a-half cents on the
16 dollar, take those proceeds and throw it at the cost
17 of the garage.

18 So it's, in essence, free money for
19 the authority. We don't have to pay these bonds
20 back. They're paid for from the tax credits. The
21 more we can get of that, the better.

22 Largely through the efforts of Senator
23 Pou, we've increased that amount from 28 and-a-half
24 million to 45.3 million. So that's a good thing.
25 We have more tax credits to sell, gives us more

1 proceeds to supply the garage.

2 When we came before you last year, we
3 were going to issue about 19 million of these tax
4 credit bonds. Now we're up to about 29 million,
5 largely because we have more tax credits to sell.

6 In a perfect world, we get almost \$17
7 million more in tax credits. That would translate
8 to about 17 million more dollars we could throw at
9 the garage.

10 However, due to a variety of factors,
11 and Pete has prepared a really good little bullet
12 point thing we can go through at the end of this
13 that shows where the costs have increased and where
14 they have decreased, but largely through higher
15 interest rates, the 19 million in tax credit bonds
16 we had originally proposed got us about \$11 million
17 towards the cost of the garage.

18 Now we'll issue about \$21 million in
19 tax credit bonds. That gets us to about, about the
20 same amount towards the garage.

21 So because of different economic
22 factors, the increase in tax credits doesn't quite
23 get us to where we hoped, due to such a large
24 increase.

25 Again, the garage costs 32 million.

1 So between the tax credits and the new money bonds,
2 the Series A, that gets us to our amounts.

3 Also, we're issuing Series C bonds and
4 they're refunding bonds, and that's not for savings.
5 It's just largely to take out the existing debt of
6 the authority because that was issued pursuant to a
7 general bond resolution that over the years became
8 burdened with covenants from FSA, the insurer of the
9 bonds, and a distribution of general fund monies
10 that kind of leaves the parking authority a little
11 bit short of available monies that make it to the
12 general fund.

13 In short, we have a 70/25 split with
14 the city, where 75 percent of the general fund
15 monies go to the city, and then when FSA insured our
16 existing bonds, they put certain covenants in that
17 require a takeout of bonds if our debt service
18 coverage ratios fall below a certain amount or if we
19 want to use general fund monies for things other
20 than that, we need their permission.

21 So it's a problem. The parking
22 authority can't use their own general fund monies
23 like they would like to all the time.

24 Again, that's a refunding of about \$16
25 million. That's gone up about a million dollars

1 from last time, but again, not for savings, it's
2 just really to kind of get rid of the existing
3 covenants.

4 So when you add that all together,
5 it's gone up from \$48 million to \$60 million, same
6 structure, same three series of bonds, just
7 different numbers.

8 We also have a city guarantee on \$48
9 million of the proceeds. Again, that matches up
10 with what we had last time. Now we're at 60 million
11 so it doesn't quite match.

12 The \$48 million city guarantee is kind
13 of divided up. 32 million goes to the new money
14 bonds, which will be Series A bonds, parking revenue
15 and the tax credit bonds, and then 16 million on the
16 full refunding \$16 million amount, that's probably
17 covered.

18 We feel going forward we could
19 probably allocate the \$32 million city guarantee on
20 all the parking revenue bond Series A and to some of
21 the tax credit bonds and make the deal work.

22 So that's an overview of the whole
23 thing. Again, structure's the same, three series of
24 bonds, only the costs have increased, same
25 refunding, same takeout.

1 And Pete, I know you put together a
2 really good bullet point, a little list of where we
3 can kind of explain where that \$12 million increase
4 is really allocated within the economics of the
5 deal.

6 With that, I'll let you go through
7 that.

8 MR. NISSEN: Sure. I'm glad to
9 discuss that.

10 Thanks for the opportunity to speak,
11 and good morning to everybody, Director and members
12 as well.

13 Director, do you want me to put this
14 up on the screen? I trust this has been shared with
15 others?

16 MS. SUAREZ: Yeah, I think that would
17 be helpful.

18 MR. NISSEN: All right. So we will
19 test whether or not I as a guest in this Teams
20 meeting have the authority to, ability to -- and it
21 looks like I do.

22 So I have a one-page summary up here
23 which hopefully can provide the people an
24 explanation of the change in the sizing of the
25 transaction.

1 So as Chris went through a moment ago,
2 the core issue in the increase in the sizing is
3 attributable to higher interest rates, not a
4 function of a higher cost of the parking facility
5 itself.

6 When you put the two transactions
7 together that Chris described, previously we
8 expected to issue about 46 million in bonds when the
9 authority came before the Local Finance Board early
10 last year, and now that amount is about 57 million.

11 And the reason for the increase in the
12 sizing is attributable again to higher interest
13 rates. Most notably, about 6 and-a-half million of
14 that is a function of the fact that, with interest
15 rates around 300 basis points higher than they were
16 18 months ago, 20 months ago, the ability to produce
17 6 and-a-half million or so, 6.2 million in original
18 issue premium has essentially evaporated, and so
19 that causes an increase in sizing.

20 The other major portions of the
21 increase are attributable to increased capitalized
22 interest, a bit of it for an extended period, but
23 also because the interest rate is higher, the amount
24 of capitalized interest that needs to be borrowed is
25 also higher. That's about \$2 million down here,

1 net, net.

2 Thirdly, the cost to fund the debt
3 service reserve fund is also higher because it's
4 based upon maximum annual debt service. Because the
5 interest rates are higher, the maximum annual debt
6 service is also higher.

7 And also notable within that amount,
8 this 6 and-a-half million right here, is the
9 anticipation for the moment that we'll need to fund
10 the debt service reserve fund for the tax credit or
11 the ERG bonds. Our hope is that will not be the
12 case, that will be a result and consequence of the
13 negotiations with the potential and ultimate
14 purchasers of the bonds, and to the extent we're
15 successful in not needing to borrow that, that's \$4
16 million that we will not need to borrow and put to a
17 debt service reserve fund that inures to the parking
18 side and ultimately inures to the project as a whole
19 and the cost to repay the debt service.

20 We do get a slight benefit from higher
21 interest rates in that the cost of the refunding
22 goes down, the escrow cost is down, about \$2
23 and-a-half million, and we also have no expectation
24 of including bond insurance so that also removes
25 about 1.8 million down here, and then some small

1 movements and others.

2 But net, net, our project cost here is
3 largely unchanged, and in fact, the net amount that
4 we're funding is a little bit better because of the
5 success in securing a state grant that's been --
6 (i ndi scerni bl e).

7 The reason behind the increase in the
8 sizing is mostly attributable to the increase in
9 rates, not attributable to an increase in the cost
10 of the project itself.

11 And I'm glad to answer any questions
12 that anybody may have regarding this discussion.

13 MR. LANGHART: Pete, I might just add
14 that we ran these rates some time ago. They've
15 improved since then. So hopefully if that
16 continues, we'll have better numbers than what we're
17 showing now.

18 MR. NISSEN: That's a very good point.
19 As Chris notes, these numbers were based upon
20 analyses prepared a couple of weeks before the
21 submission of the application.

22 As people are most likely aware of,
23 we've seen a nice rally in both taxable and tax
24 exempt rates, upwards of 50 plus basis points in the
25 last six weeks. Let's cross our fingers that

1 continues for all the borrowers of the world.

2 So our hope is that the cash flows
3 will -- the net borrowing costs will be better than
4 what is reflected in here for both the reasons of
5 lower costs, and again, hopefully the ability to
6 avoid needing the fund, the debt service reserve
7 fund on the ERG bonds, or the tax credit bonds.

8 MR. LANGHART: We're happy to answer
9 any further questions.

10 MS. SUAREZ: Thank you very much.

11 No. I think that was pretty
12 comprehensi ve.

13 I do have just one question that,
14 since I understand the presentation, very much
15 appreciate it, really delving into where some of the
16 cost savings are going to be realized by both
17 slimming down some of the areas of the project.
18 Understandably some of that's going to get eaten up
19 where we were currently in the market. Hopefully,
20 as Mr. Nissen said, that's trending in the right
21 di recti on.

22 As far as some of the covenants that
23 are going to be going away, are there going to be
24 plans I guess for some of the capital improvements
25 or will there be plans for capital improvements that

1 might still tie up some of those funds? I just
2 wasn't sure what we saw on the horizon.

3 MR. LANGHART: Well, so I might let
4 Senator Pou address that, but if we do get the flow
5 of general fund monies into the -- under the new
6 bond resolution such that we can have all of it, I
7 think that will, in essence, make more money
8 available to the authority, and I presume the plan
9 would be to put that back into the system.

10 But I defer to Senator Pou.

11 MS. POU: So thank you ver much.

12 Let me just clarify that I'm here in
13 my capacity as an employee of the Paterson Parking
14 Authority and not in my Senate capacity. I do
15 appreciate the fact that you're referring to my
16 title, but just wanted to make sure that that was
17 pointed out.

18 I would say that it is, a lot of the
19 debt ratio calculations that were formulated through
20 the various different financial analysis that we did
21 included several year of calculations in terms of
22 what would happen with respect to any kind of
23 maintenance needs or capital improvements for any
24 one of the facilities that we have.

25 So a lot of the information and the

1 financial calculations that allows us to meet those
2 debt ratio calculations will cover -- will help to
3 cover that and has been projected out.

4 I do think that there -- let me just
5 say that there's no major capital project that we
6 have in place at the moment that requires immediate
7 attention. That has been maintained throughout the
8 years for ensuring that whatever comes up comes to
9 the point where the authority is able to cover that
10 on a day-to-day, year-to-year, month-to-month or
11 year-to-year, depending on whatever its current
12 need.

13 But in terms of any huge major capital
14 improvement that may be required of us is not
15 something that I can say is out in the forefront
16 that we would need to deal with at this moment.

17 MS. SUAREZ: Thank you for that.

18 I'm going to open it up for any
19 additional questions from the board members or
20 anyone from the public who would like to make any
21 comments or raise any questions.

22 MS. RODRIGUEZ: I have a comment.

23 Full disclosure, as a former member
24 of -- commissioner of the Paterson Parking
25 Authority, this is good. It's finally good to see

1 this coming to fruition.

2 I know firsthand how important this
3 project is and how desperately it is needed in the
4 downtown area of Paterson.

5 So personally I want to wish you well
6 moving forward hoping that it really happens. I
7 know that it will.

8 Tony -- sorry, Tony's not on the
9 phone, wishing him well to get better soon, but this
10 is great. I'm really, really excited about this.

11 MS. POU: Thank you, Commissioner.

12 MS. SUAREZ: Any other questions or
13 comments?

14 Okay. Well, then, hearing none, do we
15 have a motion to issue positive findings?

16 MS. RODRIGUEZ: I make a motion.

17 MR. CLOSE: Second.

18 MR. BENNETT: I have Ms. Rodriguez and
19 Mr. Close seconding.

20 Ms. Suarez.

21 MS. SUAREZ: Yes.

22 MR. BENNETT: Mr. Di Rocco.

23 MR. Di ROCCO: Yes.

24 MR. BENNETT: Mr. Close.

25 MR. CLOSE: Yes.

1 MR. BENNETT: And Ms. Rodriguez.

2 MS. RODRIGUEZ: Yes, and lots of luck.

3 MS. POU: Thank you.

4 MR. LANGHART: Thank you.

5 MR. NISSEN: Thank you.

6 MS. SUAREZ: Best of luck with the
7 project.

8 Okay. The next application that we've
9 got before the board today is an appeal of a
10 director's decision.

11 I'm going to be recusing myself from
12 this and Ms. Rodriguez is going to chair the board
13 for this application.

14 MS. RODRIGUEZ: Good morning. We're
15 here to listen to testimony, I guess, for the appeal
16 of the director's decision.

17 MR. BENNETT: The parties represented
18 here are Mr. Phoenix, the former municipal clerk in
19 the township of North Plainfield, and Mr. DiLauri,
20 his counsel.

21 Could we have Mr. Phoenix sworn in.

22 RICHARD PHOENIX
23 is duly sworn by a Notary Public of the State of New
24 Jersey and testifies under oath as follows:

25 MR. BENNETT: Mr. DiLauri, if you'd

1 just like to introduce the matter that was
2 presented.

3 MR. Di LAURI: Sure. It was my
4 understanding that he wasn't going to be testifying
5 today, but if you want to hear his side of the
6 story, I guess we could do it.

7 MS. RODRIGUEZ: Well, maybe that was
8 presumptuous on my part overseeing this, but --

9 MR. BENNETT: If I may, just, it's set
10 forth the background for it. It's not anticipated
11 that Mr. Phoenix himself will be providing
12 testimony, but to set forth just the background and
13 the history of the matter.

14 MR. Di LAURI: Sure.

15 MS. RODRIGUEZ: Right.

16 MR. Di LAURI: So Mr. Phoenix was
17 employed by the Borough of North Plainfield since --
18 for almost 30 years, and he became the registered
19 municipal clerk for them beginning in 2009. That's
20 when he was duly appointed as the clerk, and he
21 remained in that position for 14 years, and then on
22 January 9th of this year, 2023, he was
23 unceremoniously terminated. He wasn't given a
24 hearing, and basically, it's our position that under
25 the law he is tenured.

1 Now, there's specific requirements
2 based on the statute, but our Appellate Division has
3 held that just because a town doesn't reappoint you,
4 if you allow that person to remain in their position
5 due to your own negligence or just -- or in an
6 attempt basically to circumvent the tenure laws of
7 the statute, the person is still tenured, and I
8 detail the caselaw and the reasoning for that in the
9 appeal letter that was sent over to the Local
10 Finance Board.

11 So basically, they violated his due
12 process rights. They had no right to terminate him
13 and they terminated him anyway.

14 So ultimately, we're asking that the
15 board reinstate Mr. Phoenix to his formal position.

16 MS. RODRIGUEZ: Duly noted.

17 I don't know that the board has the
18 authority to reappoint Mr. Phoenix to his position
19 so for that, sorry.

20 What this board is going to recommend
21 is that this matter be remanded back to the Division
22 of Local Government Services for their review of the
23 matter.

24 MR. Di LAURI: Okay. That's fine with
25 us.

1 MS. RODRIGUEZ: Okay.

2 MR. Di ROCCO: Do you need a motion to
3 effectuate that, Chair?

4 MS. RODRIGUEZ: Yes.

5 MR. Di ROCCO: So I'll make that motion
6 for remand.

7 MS. RODRIGUEZ: Is there a second?

8 MR. CLOSE: Second.

9 MS. RODRIGUEZ: Thank you.

10 MR. BENNETT: I have Mr. Di Rocco
11 making the motion to remand the matter to the
12 Division of Local Government Services and Mr. Close
13 second it.

14 Mr. Di Rocco.

15 MR. Di ROCCO: Yes.

16 MR. BENNETT: Mr. Close.

17 MR. CLOSE: Yes.

18 MR. BENNETT: And Ms. Rodriguez.

19 MS. RODRIGUEZ: Yes.

20 MR. BENNETT: Okay. With three votes,
21 the matter is remanded to the Division of Local
22 Government Services for reconsideration.

23 MR. Di LAURI: Is there a timeline for
24 when we can expect a decision, just so Mr. Phoenix
25 knows what the process is?

1 MR. BENNETT: I don't have that
2 information on me at the moment, but if you'd like
3 to discuss off line, we can then have a
4 conversation.

5 MR. Di LAURI: Okay. That's fine.
6 Thank you.

7 Is there anything else you need for
8 us?

9 MR. BENNETT: If there is, it would
10 come from the division. There may be additional
11 information requested coming from the division as
12 opposed to the board.

13 MR. Di LAURI: Okay. Sounds good.
14 Thank you.

15 MS. SUAREZ: All right. I'm going to
16 jump right back into it.

17 I believe we have one final matter
18 before us today, and I believe that that is simply
19 moving on to the proposed extension of the budget
20 calendar for 2024 that's done under 40A:4-5.1.

21 So this is for calendar year 2024,
22 we're going to oppose the following budget deadline
23 extensions.

24 We would like to extend the
25 Mayor-Council Faulkner Act, executive budget

1 transmission to the governing body's statutory
2 deadline from January 17 to February 27; extend the
3 submission of the county municipal annual financial
4 statement from January 26 and February 10
5 respectively to a combined date of March 8; the
6 municipal introduction and approval of the budget
7 from February 10 to March 29; the county
8 introduction and approval of the budget from January
9 26 to March 29; and the dates for the municipal
10 adoption from March 20 to April 30; and for county
11 adoption from February 28 to April 30.

12 Each of these dates is subject to the
13 proviso that the revised date is the deadline or the
14 next regularly scheduled meeting of the governing
15 body, and that's done so that if there are any
16 regularly scheduled meetings should fall within a
17 week or two following those deadlines, the governing
18 bodies do not have to call a special meeting to do
19 so.

20 With that, I'm going to ask if we have
21 a motion to adopt.

22 MR. CLOSE: So moved.

23 MS. RODRIGUEZ: Second.

24 MR. BENNETT: I have Mr. Close, Ms.
25 Rodriguez seconding.

1 Ms. Suarez.

2 MS. SUAREZ: Yes.

3 MR. BENNETT: Mr. Di Rocco.

4 MR. Di ROCCO: Yes.

5 MR. BENNETT: Mr. Close.

6 MR. CLOSE: Yes.

7 MR. BENNETT: And Ms. Rodriguez.

8 MS. RODRIGUEZ: Yes.

9 MR. BENNETT: The motion is approved.

10 MS. SUAREZ: Thank you.

11 So that concludes our agenda for

12 today. I just want to take a moment to wish

13 everyone a happy holiday season and a wonderful new

14 year. We won't see you again until 2024.

15 So I'm going to ask for a motion to

16 adjourn.

17 MS. RODRIGUEZ: So moved.

18 MR. CLOSE: Second.

19 MR. BENNETT: Ms. Rodriguez,

20 Mr. Close.

21 Ms. Suarez.

22 MS. SUAREZ: Yes.

23 MS. RODRIGUEZ: Happy holidays,

24 everyone. Merry Christmas.

25 MR. BENNETT: Mr. Di Rocco.

1 MR. Di ROCCO: Yes.

2 MR. CLOSE: Merry Christmas and happy
3 hol i days, everybody. Enj oy.

4 MR. BENNETT: Mr. Cl ose.

5 MR. CLOSE: Yes.

6 MR. BENNETT: And Ms. Rodri guez.

7 MS. RODRI GUEZ: Yes.

8 MR. BENNETT: Moti on i s approved. We
9 are adj ourned, and happy hol i days to everyone.

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I, LISA PENROD, a Certified Court Reporter (XI01753), Registered Professional Reporter and Notary Public of the State of New Jersey, do hereby certify the foregoing to be a true and accurate transcript of my original stenographic notes taken at the time and place hereinbefore set forth.



LISA PENROD, CCR#XI01753

REGISTERED PROFESSIONAL REPORTER

Dated: December 30, 2023

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