

OLD BRIDGE MUNICIPAL UTILITIES AUTHORITY

OLD BRIDGE, NEW JERSEY

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PUBLIC RATE HEARING  
SEWER DIVISION

**TRANSCRIPT  
OF  
PROCEEDINGS**

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WEDNESDAY, JANUARY 18, 2012  
6:30 P.M.

Kami Lyn Lauer  
Shorthand Reporter  
732-547-1331

**CHAIRMAN AND COMMISSIONERS PRESENT**

KIRAN DESAI

NICK SMOLNEY

RICHARD GREENE

THOMAS GALANTE

REGINALD BUTLER

**ALSO PRESENT**

GUY DONATELLI - Executive Director

ANNE ZACCARDI, ESQ. -- Board Attorney

STEPHEN A. FLOREK -- Comptroller

MICHAEL ROY - Staff Engineer

ROBERT MORRISON -- Auditor

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**DIRECT BY MS. ZACCARDI:**

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(Whereupon the Pledge of Allegiance was recited  
and Roll Call was taken)

MR. GALANTE: This public rate hearing is being held in conformance with the Open Public Meetings Act. Notice has been given to the newspapers and notice of the Public Rate Hearing has been posted in public places. Would you please call roll.

MS. GREENE: Mr. Smolney?

MR. SMOLNEY: Present.

MS. GREENE: Mr. Greene?

MR. GREENE: Here.

MS. GREENE: Mr. Galante?

MR. GALANTE: Here.

MS. ZACCARDI: This public rate hearing is to establish the new sewer rates for the Municipal Utilities Authority. I am going to give our Court Report a moment to mark the exhibits.

(Whereupon, Participant Estimate Cost Comparison was received and marked as Exhibit-A)

(Whereupon, Letter dated 11/4/11 from The Middlesex County Utilities Authority was received and marked as Exhibit-B)

(Whereupon, Rate Structure – Sewer Division  
was received and marked as Exhibit-C)

(Whereupon, Letter dated 1/17/12 from Michael Roy  
to Guy Donatelli was received and marked as Exhibit-D)

(Whereupon, Affidavit of Publication in the Home News  
Tribune, was received and marked as Exhibit-E-1 for  
Identification.)

(Whereupon, Affidavit of Publication in the Asbury Park  
Press, was received and marked as Exhibit-E-2 for  
Identification.)

(Whereupon, Breakdown of Costs in Sewer was received  
and marked as Exhibit-F for Identification.)

MS. ZACCARDI: I ask that Mr. Florek, Mr. Morrison and  
Mr. Roy be sworn in.

(Whereupon, the witnesses were sworn in)

STEPHEN FLOREK, ROBERT MORRISON and  
MICHAEL ROY, Having been duly sworn according to law,  
were examined and testifies as follows:

DIRECT EXAMINATION BY MS. ZACCARDI:

Q. Mr. Florek, if you could state your name and  
position with the Authority?

A. Stephen Florek. Comptroller of the Old Bridge MUA.

Q. Could you tell me what has been marked Exhibit – E-1?  
Could you identify that for me?

A. It is a notice from the Home News Tribune. It is an  
Affidavit of Publication that the rate hearing was advertised  
according to State Statutes.

Q. Could you identify Exhibit – E-2?

A. It is the Affidavit of Publication that the rate hearing was  
advertised in the Asbury Park Press.

Q. These both indicate that they were advertised in accordance  
with the Statute, within the time required?

A. Yes.

Q. I am going to show you what has been marked as Exhibit-

C. Could you identify that?

A. Exhibit-C is the rate resolution for the Sewer Division,  
which incorporates the new proposed rates into the format.

Q. Did you prepare that document?

A. Yes, I did.

Q. I am going to show you Exhibit-A.

A. Exhibit-A is from the Middlesex County Utilities Authority which gives us our yearly estimates for 2011 and 2012 and the yearly increases.

Q. Did you use that in your calculations?

A. Yes, I did.

Q. What is Exhibit-B?

A. Exhibit-B is the Certifications of the 3<sup>rd</sup> Quarter Flow and Loading from MCUA. It is projected out to the 4<sup>th</sup> Quarter based upon conversations that Mike Roy had with MCUA for the 4<sup>th</sup> Quarter.

Q. Was this used in your calculations?

A. Yes, it was.

Q. Can you tell me what Exhibit-D is?

A. Exhibit-D is the Sewer Rate Structure which is worked up by Mike Roy. It takes the actual loadings and flows, it comes up with the actual industrial rates and the residential rates.

Q. You used that in your calculations also?

A. Yes, I did.

Q. Finally, Exhibit-F?

A. Exhibit-F, basically shows where we are going. What had to be raised in the Sewer Division in 2012? The shortage that exists in the MCUA Budget for 2011, the new amount for 2012. It shows the amount



that we are going to be using for retained earnings. It shows the current and projected rates. Also, the total bill for the minimum user.

Q. Based on these documents, you prepared the resolution within your rate structure? Based on the information that we just went over, you prepared the resolution containing the new rate structure?

A. Yes.

Q. Can you tell me how you arrived at the new rate?

A. Basically, the rates are arrived at by Mike Roy in a calculation that he performs on Exhibit-D. Those numbers are then carried forward to the Sewer Division Rate Resolution.

Q. What was the prior rate?

A. The prior rate for the residential was \$121.80 per quarter. The proposed rate is \$126.99 per quarter.

Q. In reviewing these documents and preparing the resolution, was this done in accordance with the Statutory Requirements?

A. Yes, it was.

DIRECT EXAMINATION BY MS. ZACCARDI:

Q. Mr. Roy, I am going to ask you what has been marked as Exhibit-D. Did you prepare this document?

A. Yes, I did.

Q. You gave this document to Mr. Florek for use in establishing the new rate?

A. Yes, I did.

Q. Can you please explain the document and how you arrived at the new rate?

A. Based on historical flow and loadings of BOD, suspended solids and chlorine demand which is a measure of the strength of the sewage and the new Middlesex County Utilities Authority rates for the various flow and loadings in both the fixed charges and the debt service, I calculated the amount of – what the rate would be in order to recover the revenue that was required by Mr. Florek.

Q. What is the difference in the Middlesex County rate from the prior rate?

A. The rate is almost flat, but based on the additional expenses from Middlesex, because of the actual flow and loading charges versus the estimated quarterly payments, there was an additional expense that we had to account for in the rates this year.

Q. Is there anything else that you wanted to add with regard to your calculations?

A. No. The calculations are based on the numbers which includes a million dollars of retained earnings to stabilize – to bring the rate to 4 ¼% for a flat residential customer.

Q. Is that the only rate that is being changed?

A. No. The other rates that are being adjusted are the ground water remediation rate, commercial rate, which is a charge per thousand gallons and the loadings for the industrial users of the BOD, suspended solids and chlorine demand. All of those are being adjusted.

Q. All those changes are being included – did you have a chance to look at the proposed resolution?

A. Yes, I did.

Q. They are all included in there?

A. Yes.

Q. You did all of your calculations in accordance with Statutory requirements?

A. I did mine in accordance with good engineering practice and I would refer to the auditor in his review of my documents of whether it was done according to the Statutes.

Q. Very well. Based on your calculations, would you recommend that the Commissioners adopt the proposed new rate?

A. Yes, I do.

RE-DIRECT EXAMINATION BY MS. ZACCARDI:

Q. Mr. Florek, based upon your review of the documents and calculations, would you recommend that the Commissioners adopt the new rate?

A. Yes, I do.

DIRECT EXAMINATION BY MS. ZACCARDI:

Q. Mr. Morrison, you have heard Mr. Florek and Mr. Roy testify as to the documents they used to establish the new rates and the calculations. Have you had a chance to review all of the items that have been marked into evidence?

A. Yes, I have.

Q. Based upon your review, were all of the calculations done in accordance with the State Statutes?

A. In accordance with the State Statutes and in the same manner as they have in previous calculations prepared by Mr. Roy.

Q. Everything is consistent and within the law?

A. Yes.

Q. Does this rate comply and all the calculations comply with the Authority's Bonding Indentures?

A. Based on the estimate of using one million dollars of retained earnings, the rate increases that are being proposed tonight will keep the Authority within the provisions of its Service Agreement and its Bonding Indentures.

Q. Based upon all of that, would you recommend to the Commissioners that they adopt the new sewer rates?

A. Yes I do.

MS. ZACCARDI: I have no further questions. Do the Commissioners have any further questions?

MR. GREENE: Is the use of the million dollars unrestricted – retained earnings, is that what we have now or projected?

MR. FLOREK: It is what I currently have in the Sewer Division. We currently have \$1,200,000.

MR. GREENE: So that would leave \$200,000?

MR. FLOREK: Correct. Based upon projections thus far, I anticipate rebuilding that current amount. So I feel comfortable using that amount. I have \$1,869,000 as the current amount.

MR. GREENE: Do we do some kind of public information? I thought that the packet – there was an article with regards to Hazlet and Union Beach when they increased their rates. Do we do any kind of free counsel so that the public can understand that this is something that really is not in our control? The million dollars is a good thing, a positive thing.

MR. DONATELLI: What those articles were referring to was how these towns that are a part of a regional system, they are seeing an increased cost, similar to what we are seeing. They were taking some type of proactive voicing out of displeasure in what is going on. There is little these towns can do, there is little we can do because these regional Authorities were set up and the DEP is not going to reverse and undo them all. It is a matter of each individual facility monitoring it and trying to keep track of what's happening so we can stay on top of it. There is little more that we can do. We can put things out on our website, we can put information in our Consumer

Confidence Report that goes out. As far as having a press release, we haven't done anything of that nature.

MR. GREENE: I think it would be beneficial for the rest of the public to be aware –

MR. SMOLNEY: The Consumer Confidence Report would be one area that we can do because it is mailed out to all of the consumers. I believe that the front page is somewhat in our control whereas the other pages are pretty much under regulation. That is a good suggestion.

MR. GREENE: When does that come out?

MR. DONATELLI: July. Without any Board authorizations or press releases --

MR. GREENE: I understand.

MR. DONATELLI: We try to as much as we can to get information out on our website, we try and encourage people to go out as much as we can.

MR. GREENE: It is a difficult time for people.

MR. DESAI: I think we should put the whole thing on the website to let people know why we are increasing.

MR. SMOLNEY: Each year there are requirements, making minor adjustments. It would be a good idea to put this information out there. If we had a major rate increase, 20%, 30%, 40% generally the public would need to know.

MS. GREENE: You make a good point because you can point the finger and say well, go back a few years, if we didn't make this transaction and this transaction we would be more fiscally able to handle this, but unfortunately its history, you can't go back. If you don't address the problem now, and pass it off, it's only going to get worse. The numbers prove to be true.

MR. SMOLNEY: I can make an argument that I should vote against this, but that's not the right situation of the Authority or the rate payers, or the town. This thing is to recognize when costs go up and to have to challenge and meet that requirement. There is a challenge to the administration seeking out the savings that they can within that structure rather than working against good management practices.

MR. GREENE: I would like to say one thing, myself, Commissioner Butler and Anita Greenberg went to Cliffwood Beach and met with Guy, Steve and Mike. I tell you, it was very informative. The one thing that makes me comfortable with this is that I can see that the management in this organization is doing a good job. They research as much as they can. I have a lot of trust in them. I do not like to support a rate increase, but overall want what is fiscally prudent.

MR. FLOREK: I would like to add that if no retained earnings were used, then the actual rate increase would have been 11.92% as opposed to the 4.26%.

MR. GREENE: Through efficiencies, we are able to take a million dollars and minimize the impact.

MR. SMOLNEY: It's not only the million dollars, it's the million dollars each year. You have to maintain the fiscal prudence –

MR. ROY: Let me add that should things stabilize with the Middlesex County Utilities Authority, one thing we can do is to replenish the retained earnings so that we can continue to keep the rates stabilized in the future.

MR. GREENE: If it turns out that this is a temporary thing the rate will benefit them in the long run.

MS. ZACCARDI: Any questions from the public? Please state your name and address for the record.

DR. ANITA GREENBERG: Dr. Anita Greenberg. This rate increase in flow rate was never identified, the reason. It's basically now an anomaly. Do you feel it has anything to do with Hurricane Irene?

MR. FLOREK: No.

MR. SMOLNEY: That was one of the questions that was asked and explored during the period of time when we first became aware of it. There were a number of other issues



with respect to the dynamics of what transpired. We have not been able to come up with rational information that would allow us to not take care of this.

DR. ANITA GREENBERG: It's unfortunate because maybe we could seek some of the money from FEMA, I'm not sure if that is possible. One question, when you say rate increase verses surcharge, sometimes I know that these rate increases are passed along and even when things get better, they never go away. So maybe a surcharge, explain the situation and basically if it continues then you would have to do a rate increase. Is that a possibility?

MR. ROY: Not at this time. The proposal is for a rate increase.

DR. ANITA GREENBERG: With the MCUA, the rate is going up because the flow rate had increased, not because of costs from the MCUA?

MR. ROY: It's going up because the payment to MCUA is based on a quarterly estimate payment. The actual flow and loadings in 2011 turned out to be higher. So therefore there is a difference there, expense there that we have to pay. We have to pay it now. So what we are saying is that it is prudent for us to include that in the rate increase because should those – we have estimates going into 2012 that may not be high enough. We will not be able to fix

this until 2013. Should we go through this year and see higher numbers again, we are also going to have another expense at the end of this year. Then we will be playing catch-up if we do not do this now. If things do stabilize then we will have extra money to replenish in our retained earnings. We can continue to use it like we did now to stabilize rates in the future.

DR. ANITA GREENBERG: I just feel that it is unfortunate that the financial house is now in a mess based on some of the decisions before, to purchase land and to give the Municipality the 1.5 million –

MR. SMOLNEY: Different budget. That was water not sewer.

DR. ANITA GREENBERG: I understand. Still a financial mess. My question is with the MCUA, that's an Authority also. Who appoints those people?

MR. ROY: The County.

DR. ANITA GREENBERG: Freeholders?

MR. ROY: Yes.

DR. ANITA GREENBERG: I am sure that there are other Municipalities that are having this problem too. There is no way to have meetings with other people, other towns, put presentations to the Freeholders. How can we stop this from continuing?

MR. ROY: All of that is possible. That is some of the investigation that we will start looking into. Talking to other participants of the MCUA. If there is some kind of class action that we could join in on with them, not legally, but maybe in presentation form, we will present them. If it makes sense once we start the investigation.

DR. ANITA GREENBERG: A problem with the Freeholders is a lot of the money and all the time we hear it's from the County. No one makes the County be accountable, that's important. We just pass the buck, it's okay. We have to roll with it. That does not seem fair and thinking of the rest of the town, if you look at the percentage of taxes that go to the County, I think there comes a point when enough is enough. There should be some subsidizing, these rate increases should not be passed on to residents. People are having a rough time and I really think that someone has to stand for that. Thank you.

MS. ZACCARA: Anyone else from the public? Seeing no one, I will close the public portion. I will leave it to the Commissioners to take a vote on the Sewer Rate.

MR. GALANTE: We have a motion.

MR. BUTLER: Move.

MR. SMOLNEY: I'll second.

MR. GALANTE: Moved by Mr. Butler and seconded by  
Mr. Smolney. Roll call, please.

MS. GREENE: Mr. Desai?

MR. DESAI: I hate to vote no. But I feel it is a bad time.  
I vote no.

MS. GREENE: Mr. Smolney?

MR. SMOLNEY: Yes.

MS. GREENE: Mr. Butler?

MR. BUTLER: Yes.

MS. GREENE: Mr. Greene?

MR. GREENE: Yes.

MS. GREENE: Mr. Galante?

MR. GALANTE: Yes.

MR. GALANTE: I will move to adjourn.

MR. SMOLNEY: Second.

(WHERE UPON THE MEETING CONCLUDED AT 6:55 P.M.)

I Kami L. Lauer, a Shorthand Reporter, certify that the foregoing is a true and accurate transcript of the testimony of STEPHEN FLOREK, MICHAEL ROY and ROBERT MORRISON, who were first sworn.

I further certify that I am neither attorney nor counsel for, not related to or employed by, any of the parties to the action in which this deposition was taken; further, that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

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Kami L. Lauer  
Shorthand Reporter