

OLD BRIDGE MUNICIPAL UTILITIES AUTHORITY

OLD BRIDGE, NEW JERSEY

PUBLIC RATE HEARING
WATER DIVISION

**TRANSCRIPT
OF
PROCEEDINGS**

WEDNESDAY, AUGUST, 15, 2012
6:30 P.M.

Kami Lyn Lauer
Shorthand Reporter
732-547-1331

CHAIRMAN AND COMMISSIONERS PRESENT

KIRAN DESAI

ROCCO DONATELLI

THOMAS GALANTE

EDWARD TESTINO

REGINALD BUTLER

ANITA GREENBERG

ALSO PRESENT

GUY DONATELLI - Executive Director

LOUIS GRANATA, ESQ. -- Board Attorney

STEPHEN A. FLOREK -- Comptroller

MICHAEL ROY - Staff Engineer

ROBERT MORRISON -- Auditor

MICHELLLE SMITH

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DIRECT BY MR. GRANATA:

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(Whereupon, the Usable Retained Earnings
was received and marked as Exhibit-1)

(Whereupon, Rate Structure – Water Division was
received and marked as Exhibit-2)

(Whereupon, Affidavit of Publication in the Asbury
Park Press was received and marked as Exhibit-3)

(Whereupon, Affidavit of Publication in the Home
News Tribune was received and marked as Exhibit-
4)

(Whereupon, Petition of Middlesex Water Company
for Approval of an increase in Rates for Water
Service and Tariff Charges was received and
marked as Exhibit-5)

(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?

MR. GRANATA: Mr. Desai?

MR. DESAI: Here.

MR. GRANATA: Mr. Donatelli?

MR. DONATELLI: Here.

MR. GRANATA: Mr. Galante?

MR. GALANTE: Here.

MS. GRANATA: Mr. Testino? Mr. Butler?

MR. BUTLER: Present.

MR. GRANATA: Mrs. Greenberg?

DR. GREENBERG: Present.

MR. GRANATA: Also present is Guy Donatelli, the Executive Director; Stephen Florek, Comptroller; Michael Roy, Professional Engineer; Louis Granata, General Counsel; Robert Morrison, Auditor and Michelle Smith.

MR. GALANTA: At this time I am going to turn this meeting over to Mr. Granata.

MR. GRANATA: Chairman and Commissioners, tonight is a rate hearing for the pass-through of the rate increase for the Middlesex County Water Authority. You are required by law to have a rate hearing before you impose any rate increase or to consider any rate increase.

First, what has been marked as Exhibit-3 is the notice of publication in the Asbury Park Press, notifying the public of the rate hearing tonight. Exhibit-4 will be the Affidavit of Publication for this public notice, published in the Home News Tribune. These two newspapers were used as your public notice.

I would like to have Mr. Florek and Mr. Morrison sworn in.

(Whereupon, the witnesses were sworn in)

STEPHEN FLOREK and ROBERT MORRISON,

Having been duly sworn according to law, were examined and testifies as follows:

DIRECT EXAMINATION BY MR. GRANATA:

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

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

Q. Mr. Florek, are you familiar with the Matter of the Petition of Middlesex Water Company for Approval of an Increase in Rates for Water Service and Other Tariff Changes?

A. Yes, I am.

Q. Are you familiar with the Order that was entered by the State Board of Public Utilities, July 20, 2012?

A. Yes, I am.

Q. I show you what has been marked as Exhibit-5. Is that the Order of the Public Utilities?

A. Yes, it is.

Q. Have you had an opportunity to review that Order?

A. Yes, I have, Mr. Granata.

Q. In essence, what does that Order indicate?

A. Basically, the Order indicates the raises in rates that Middlesex Water Company was awarded by the BPU to various companies, including the Old Bridge MUA.

Q. What is the rate of increase for the Old Bridge Municipal Utilities Authority by Order of the BPU?

A. The rate increase by Order of the BPU to Old Bridge MUA is 3 ½% on our current rate.

Q. Are you familiar with the position that the Old Bridge Municipal Utilities Authority took with regard to the appearance before the BPU?

A. Yes, I am.

Q. In fact, the Old Bridge Municipal Utilities Authority hired special counsel to appear, to represent the Board to oppose the increase. Is that correct?

A. Yes. We hired Hesser McBride from Wilentz, Goldman & Spitzer. We also hired a water engineering company, which is Guastella Associates.

Q. As a result of the proceedings before the Board of Public Utilities they rendered this Order, increasing the rates to Old Bridge Municipal Utility Authority at 3 ½%?

A. Yes, they have.

Q. As a result of that Order, have you had an opportunity to review the retained earnings of the MUA? For the record, the order was marked as Exhibit-5. After you received the Order, did you take any action?

A. Basically, what I did was I looked at what the impact would be on the Old Bridge MUA on a yearly basis. I looked at the available retained earnings that we had at the MUA, whether we were able to absorb such an increase in-house or whether we would have to pass it on to the rate payers.

Q. As a result of that review, what did you conclude?

A. Based upon the review, there was no way that the Old Bridge Municipal Utilities Authority could absorb an increase of \$372,808 when the Old Bridge MUA, as of June 1, 2012, only has an estimated retained earnings of \$244,000. In that case, it was mandatory by both statute and trust indenture that we actually went through and had to have a rate increase.

Q. In your analysis, did you prepare a statement concerning the usable retained earnings for the MUA as of June 1, 2012?

A. Yes, I have.

Q. That is what has been marked as Exhibit-1?

A. Yes, it is.

Q. As a result of your conclusion, do you recommend that the MUA pass through the increases on to the customers?

A. Yes, I do.

Q. What is the recommendation that you have made?

A. The recommendation that I have made is that we push through a 3 ½% rate increase across the board to all Old Bridge Municipal Utilities Authority water users.

Q. With regard to that, are you familiar with the Old Bridge Utilities Authority Rate Structure Water Division, previously marked as Exhibit-2?

A. Yes, I am.

Q. Is that the rate that you would recommend the Commissioners impose as a result of this hearing?

A. Yes, I do.

Q. Thank you, Mr. Florek.

DIRECT EXAMINATION BY MR. GRANATA:

Q. Mr. Morrison, would you state your name and position with the Authority, please.

A. Robert Morrison, CPA with the firm Hodulik & Morrison, independent auditor to the Authority.

Q. Mr. Morrison, have you had an opportunity to review the decision of the Board of Public Utilities?

A. Yes, sir.

Q. After your review, do you concur with Mr. Florek's observations and conclusions reached by the Board?

A. Yes. The Board has levied a 12.5% increase on water rates.

Q. As a result of that increase Mr. Florek has had an opportunity to review the usable retained earnings set-forth in Exhibit-1. Have you had an opportunity to review that?

A. Yes, I have. Those numbers are unaudited at this point, but we have in the past rarely made any adjustment to Mr. Florek's retained earnings calculations. We are comfortable with the numbers that he has set forth.

Q. As a result of what Mr. Florek has done with the retained earnings, Mr. Florek is recommending to the Authority that they pass this rate increase on to the consumers. Is that correct? Do you concur with that?

A. Yes, it is correct and I do concur with that. For the simple fact that – two reasons; A, you do not have retained earnings sufficient to cover one years' worth of the cost. More importantly, this rate increase is a permanent position to the cost of operations for the MUA. It's necessary if your cost base goes up to build your revenue base with it so that you do not create the need for larger increases down the road. I do agree with it.

Q. Aside from the fact that the Board of Public Utilities has passed this rate on to the MUA, does the MUA have contractual obligation to the Middlesex Water Company?

A. You have a contractual obligation to purchase a certain amount of water. The contract calls for additional fees when you go over a base amount. In addition to that, they are your only source of water outside of the limited amounts that you are allowed to pull from your well system.

Q. As a result of the contract and the BPU's award, the MUA has to absorb or pass on this rate increase, is that right?

A. Yes, sir.

Q. Have you had an opportunity to review the resolution that was prepared, in draft form, as Exhibit-2?

A. I have.

Q. Do you recommend to the Commissioners that they adopt this rate increase?

A. Yes, I do. It generates the necessary revenues and the calculations are mathematically correct.

Q. As a consultant for the MUA, does this procedure comply with the statutory requirements of the MUA with regards to rates?

A. It is absolutely necessary to keep the Authority in compliance with the terms of its Trust Indentures to its bond holders in that it generates revenue sufficient to cover operating costs, plus debt service.

Q. So the procedure, in your opinion, is based upon the statute and the binding obligations?

A. Yes, sir.

Q. Do you recommend to the Commissioners that they adopt this rate increase?

A. Yes, sir.

MR. GRANATA: I have no further witnesses or testimony. Are there any questions from any of the Commissioners?

MR. BUTLER: I just want to say one thing. I just want to get back to what Steve Florek said, he said he looked at all of the revenue that we had, looked at all of the different resources that we had. He came to the conclusion that we could not absorb this because our revenues are low?

MR. GRANATA: Is that correct, Mr. Florek?

MR. FLOREK: Yes, it is.

MR. BUTLER: I just wanted to get that on the record.

Thank you.

MR. GRANATA: Any other questions from the Commissioners?

DR. GREENBERG: I would like to speak –

MR. GRANATA: Right now it is the presentation of the testimony. If there are no questions from the Commissioners. I open the matter up to the public.

Anyone from the public that would wish to question any of the testimony from any of the experts?

MR. HENRY: I would.

MR. GRANATA: Please state your name and identify yourself for the record please.

MR. HENRY: Owen Henry, Mayor, Township of Old Bridge. I would just like to confirm that this is your only recourse. In the past, how have increases to the rate payer been absorbed by the MUA?

MR. GRANATA: Is that to Mr. Florek or –

MR. HENRY: Has there ever been a rate increase not passed on to the consumer?

MR. FLOREK: Basically, the rate increases that come from Middlesex County Utility Authority or Middlesex Water Company are basically passed on. How we maintain and keep our rates stable is through retained earnings, but it's basically for operational costs only. It's not for costs that are manufactured on the outside and pushed through on to us.

MR. HENRY: Has there ever been an increase to the MUA not passed on to the consumers?

MR. FLOREK: Not that I am aware of.

MR. HENRY: Money was never taken out of surplus to offset the cost of –

MR. FLOREK: The only time was when we had a purchase order or adjustment clause or if it was a minimal rate increase which would have had no real impact to the Authority.

MR. HENRY: What is the total increase?

MR. FLOREK: \$372,808. Based upon our budget numbers.

MR. HENRY: That is considered a major impact to the MUA, \$372,808?

MR. FLOREK: Yes, it is. If you only have \$244,000 of retained earnings, there is no way –

MR. HENRY: What affects the retained earnings? Why is there only \$244,000? I am not an accountant, I am just asking why an Authority would have that little amount of money?

MR. FLOREK: Two things that have come up within recent years is requisitions by the Township of Old Bridge for funds –

MR. HENRY: Did that happen this year?

MR. FLOREK: This year, it did not happen. The past two years, it did happen.

MR. HENRY: So, that affects you're --

MR. FLOREK: That affects our bottom line and retained earnings.

MR. HENRY: It had an impact on your decision that you are contemplating tonight?

MR. FLOREK: You're right.

MR. HENRY: Thank you.

MR. GRANATA: Any other questions from the public?

Seeing no further questions, Commissioners, I have no further testimony. I turn the matter back to the Chairman of the Board for consideration.

MR. DONATELLI: I have a question. Steve, all that money that the MUA gave to the Township, who received all of that?

MR. FLOREK: The town received the money. I am not speaking on behalf of the town, but from what I understand, it went through the revenue items and used for normal operations, not for any capital projects.

MR. GALANTE: Do we have a Motion?

MR. BUTLER: I move.

MR. DONATELLI: Second.

MR. GALANTE: Motion has been moved by Commissioner Butler and seconded by Commissioner Donatelli. Roll Call please.

DR. GREENBERG: I think it is very unfortunate that we have come to this issue. I feel that the MUA has been saving money and a decrease in the reserves has come

along over the past two years. As a result of that, there came the increases. I remember where we had \$17 million reserved. When you explain that you need that reserve, one to off-set these costs when you get an increase from Middlesex County and two, as you know the aging of pipes and infrastructure. So that is why you need that reserve. I think it was wrong, absolutely wrong for the prior administration, Mayor Phillips and the Council who voted to take the \$1.3 million, not once, but twice and even tried a third time. I think it is wrong to sell land to the township. That makes up \$5.6 million, \$1.3 million, and \$1.3 million. There is no wonder why the reserve is so low now. That was ponied out not once, not twice, multiple times. It is very frustrating to me that we have this situation. As you heard from the Mayor, the Mayor and this administration will not take money from the MUA. They realized the gravity that creates when you do that. So what happened with Mayor Phillips and the Council that approved taking that – in which I also have to add that I never saw a land sale, with an appraisal done so fast. When you allow the Mayor to take that money and basically destabilize the MUA, you really just to give him a pass with his behaviors, reckless behaviors, what he did with his budget and gave the money to payroll. Basically, the Mayor got the MUA's

money, destabilized the MUA but did not control or alter the way that he proceeded on the Municipal side. It's very upsetting that these costs are passed along. The municipal tax was kept low but the water tax rate went up. So the MUA had to deal with the public on that aspect. To me, I think it is wrong. As far as an increase rate, I understand when Middlesex County passes along, but I think we have to be more involved in and participate in their budget problems too. Reach out to Freeholders reach out to the County. A lot of money goes out in that direction, but it never comes back this way. I think there are other ways to do it. I do realize that there was a lot of money wasted previously and that jeopardized the operations – when I say money wasted, on the municipal side – now, it had jeopardized the operations of the MUA and the Authority and cost the town dearly.

So my goal with this Board, I am sure everyone here wants to stabilize rates, make sure that we have sufficient reserves so that this does not happen repeatedly. Make sure that we have enough money that when we need things done we can get things done. I think just already knowing that we are heading in the right direction that the Mayor is not going to take the \$1.3 million. During the summer, it is a very dry summer, we do not know, maybe there is more money

coming in and maybe we could avoid this. I would like to really think about doing that and when you also put a tax -- when you increase the rate instead of a surcharge to get us through this time, the tax that lasts forever. Increasing the rates -- may be a surcharge would be better. Past practices created this problem. We have no cushion, no buffer. It is very sad to hear our financial advisor say the small amount that we have and I am sure we are all very nervous if we have a main line or something break. I can't tell you how sorry it is that we came to this point.

MR. DONATELLI: The only thing I can say is that I hope something good happens with that \$5 million we spend up there comes back to us. That money belongs to the MUA; I hope it comes back to the MUA.

DR. GREENBERG: I hope something does come.

MR. DONATELLI: I guess we tried to do whatever it is we had to do. We had the police in mind, we would have had more police laid off if the MUA did not help them.

DR. GREENBERG: I agree -- as far as police being laid off, maybe it is a direct relation. Everyone has to realize that you only gave them a lifeline for six months. Now, the municipality is still without this money because they never adjusted. As far as purchasing the land, if it does come to fruition where it is a successful project that is great. That is

not in the near future. We are dealing with things changing all the time. It is very sad that they want a 12% increase, I believe in a 4%, you have to have some sense of being reasonable.

MR. GALANTE: Anyone else?

MR. HENRY: Does the public get to speak before you vote?

MR. GALANTE: No, I don't think – Lou?

MR. GRANATA: The public portion is closed.

MR. TESTINO: The Mayor would like to speak.

MR. GALANTE: Would you like to speak again, Mayor?

MR. HENRY: Before a vote is taken, I would like to speak.

MR. GALANTE: Please let the record show that Mr. Testino is here. Mayor, please speak.

MR. HENRY: Commissioners, I stand here tonight as your Mayor, as you know. My main concern as Mayor was to stabilize the township, at the same time help the MUA become a more stabilized Authority. I know what has happened in the past here, how money was taken from the MUA to make payroll here on this side of the building, but that is water, no pun intended, under the bridge.

By moving forward, I was hoping by not having the same attitude as previous administrations, by taking money, your

operating budget – out of your operating budget, as Mayor I am probably entitled to. This forced me to make some real tough decisions in town here, very unpopular ones. I am asking you Commissioners to step up to the plate, make some tough decisions start to face the music for mistakes that were made in the past.

The rate payers should not have to pay again here. I represent the tax payer and the rate payer. Unfortunately, this is going to be a reflection on my administration. I implore you to find an alternative opposed to putting this on the back of the rate payer here in Old Bridge again. As Mayor, as administration, it's unacceptable; I am not going to take this sitting down. I expect more from the Commissioners. The easy thing to do is to pass this on, maybe the tough thing to do is to find an alternative, come up with a solution. That is what I am expecting because we are doing it on this side of the building, I expect you to do the same. As I said before, I am not going to take this sitting down – should you vote in a positive manner here tonight. I don't talk unless I have something to say, I don't want to get involved in the operations of the MUA, until it starts affecting the rate payer, the tax payer. I hope and I urge you to proceed cautiously tonight and really put some thought into this.

Thank you. I apologize if anyone feels that I am out of line, but it's something I feel very strongly about. So thank you.

MR. GALANTE: Thank you, Mayor. Anyone else? It has been moved and seconded. Vote please.

MS. LAUER: Mr. Desai?

MR. DESAI: What are we voting on?

MR. GALANTE: We are voting on the pass-through.

MR. DESAI: No.

MS. LAUER: Mr. Donatelli?

MR. DONATELLI: Yes.

MS. LAUER: Mr. Galante?

MR. GALANTE: Go to me last.

MS. LAUER: Mr. Butler?

MR. TESTINO: Yes.

MS. LAUER: Mr. Testino

MR. BUTLER: No vote.

MS. LAUER: Dr. Greenberg?

DR. GREENBERG: No.

MS. LAUER: Mr. Galante?

MR. GALANTE: Yes.

MR. BUTLER: Meeting adjourned.

MR. GALANTE: Moved by Mr. Butler, seconded by Mr. Donatelli.

MS. LAUER: Mr. Desai?

MR. DESAI: Yes.

MS. LAUER: Mr. Donatelli?

MR. DONATELLI: Yes.

MS. LAUER: Mr. Galante?

MR. GALANTE: Yes.

MS. LAUER: Mr. Testino?

MR. TESTINO: Yes.

MS. LAUER: Mr. Butler?

MR. BUTLER: Yes.

MS. LAUER: Dr. Greenberg?

DR. GREENBERG: No. I mean, yes.

MR. GALANTE: Meeting adjourned.

(WHERE UPON THE MEETING CONCLUDED AT 6:54 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 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.

Kami L. Lauer
Shorthand Reporter