

1 BEFORE THE BOARD OF SUPERVISORS
2 OF THE TOWNSHIP OF WESTTOWN
3 CHESTER COUNTY, PENNSYLVANIA

5 VOLUME 5

7 IN RE: CONDITIONAL USE APPLICATION
8 TOLL PA XVIII, L.P.

10 Hearing was held at the Bayard
11 Rustin High School, Auditorium, 1100 Shiloh
12 Road, West Chester, Pennsylvania, on Tuesday,
13 June 20, 2017, beginning at 6:06 o'clock,
14 p.m.

15 BEFORE: MICHAEL T. DIDOMENICO, Chairman
16 CAROL R. DEWOLF
17 THOMAS HAWS

18 ALSO PRESENT: ROBERT R. PINGAR,
19 Township Manager

23 ELEANOR J. SCHWANDT, RMR
24 COURT REPORTER

-01-17-48 1 try to get into that microphone.
-01-17-48 2 One housekeeping item I want to
-01-17-44 3 clear up before we start the fifth hearing this
-01-17-41 4 evening. In reviewing portions of the
-01-17-40 5 transcript and the exhibits that we had I
-01-17-38 6 noticed that the Planning Commission had marked
-01-17-36 7 a PC 1 and PC 3. I was pretty sure there was a
-01-17-31 8 PC 2, but I didn't have it marked and the
-01-17-29 9 transcript didn't reference it.
-01-17-27 10 Speaking with Ms. Camp prior to
-01-17-26 11 the meeting, PC 2 was the portion of the
-01-17-22 12 Michael Harris book *Military History of the*
-01-17-16 13 *Battle that Lost Philadelphia but Saved*
-01-17-14 14 *America*, and it was pages 314 through 321. So
-01-17-07 15 I just want to note that that has now been
-01-17-05 16 marked for the record as PC 2. So we have PC
-01-17-02 17 1, 2 and 3 now marked. I had the exhibit, but
-01-16-59 18 it was not marked.
-01-16-58 19 When we were here last month the
-01-16-55 20 applicant had presented testimony from their
-01-16-51 21 traffic consultant. Ms. Kline could not be
-01-16-47 22 here this evening. We are going to go a little
-01-16-45 23 bit out of order.
-01-16-44 24 First thing to ask this evening,

1 APPEARANCES:

- 2 PATRICK M. MCKENNA, Esquire
on behalf of the Board of Supervisors
- 3 GREGG I. ADELMAN, Esquire
4 on behalf of the Applicant
- 5 KRISTIN CAMP, Esquire
6 on behalf of Westtown Township
Planning Commission
- 7 KATHRYN L. LABRUM, Esquire
8 on behalf of Thornbury Township
- 9 MARK THOMPSON, Esquire
on behalf of Neighbors for Crebilly, LLC

-01-18-43 1 as I do everyone time, is there anyone
-01-18-40 2 recording the meeting?
-01-18-39 3 MR. BRAXTON: Yes.
-01-18-39 4 MR. MCKENNA: Thank you. And it
-01-18-38 5 is video?
-01-18-37 6 MR. BRAXTON: Yes.
-01-18-36 7 MR. MCKENNA: Would you identify
-01-18-35 8 yourself again, please.
-01-18-34 9 MR. BRAXTON: John Braxton.
-01-18-31 10 MR. MCKENNA: Thank you very
-01-18-29 11 much.
-01-18-28 12 I believe that the applicant will
-01-18-28 13 present the testimony from one witness, who
-01-18-25 14 will then be subject to cross-exam, and then
-01-18-23 15 the Planning Commission is going to begin their
-01-18-21 16 case. When we come back in July the
-01-18-18 17 applicant's traffic consultant will retake the
-01-18-16 18 stand and be subject to any further
-01-18-12 19 recross-examination or redirect that may be
-01-18-09 20 involved, and then the Planning Commission will
-01-18-07 21 pick up their case from there.
-01-18-05 22 So it is a little bit out of
-01-18-04 23 order, but for the sake of efficiency of
-01-18-02 24 everyone's time, we want to keep things moving

-01-18-25 11
-01-18-25 12 THE CHAIRMAN: Good evening,
-01-18-23 13 everyone, and welcome to the fifth conditional
-01-18-21 14 use hearing for the Crebilly tract and Toll
-01-18-18 15 Brothers developers. If we would please rise
-01-18-17 16 for our Pledge of Allegiance.
-01-17-59 17 (Pledge of Allegiance takes
18 place.)
-01-17-58 19 THE CHAIRMAN: Thank you,
-01-17-58 20 everyone. And at this point I will turn the
-01-17-55 21 hearing over to Mr. Pat McKenna.
-01-17-53 22 MR. MCKENNA: Thank you, Mr.
-01-17-51 23 Chairman. Good evening ladies and gentlemen.
-01-17-50 24 Hopefully you can hear me all right. I will

1 along.
 2 Mr. Adelman, anything further
 3 from you at this point?
 4 MR. ADELMAN: Nothing further.
 5 MR. MCKENNA: All right. Then
 6 why don't you go ahead and call your witness.
 7 MR. ADELMAN: Thank you very
 8 much, Mr. McKenna. At this time I would like
 9 to call David C. Babbitt to testify and be
 10 sworn.
 11 DAVID C. BABBITT,
 12 the witness herein, having first been
 13 duly sworn on oath, was examined and
 14 testified as follows:
 15 MR. ADELMAN: Just for the
 16 Board's information, Mr. Babbitt is going to
 17 testify sitting down because he has a leg
 18 injury and is unable to stand for long periods
 19 of time. So to the extent that you can't hear,
 20 please let us know and I will have him speak to
 21 the microphone closer.
 22 And also, the exhibits that Mr.
 23 Babbitt will be testifying to had been
 24 previously distributed to all counsel and to

1 the township, I believe a couple of meetings
 2 ago, specifically Exhibits A-25, A-26 and A-27,
 3 so I'm not handing out anything additional with
 4 respect to his testimony.
 5 DIRECT EXAMINATION
 6 BY MR. ADELMAN:
 7 Q. Mr. Babbitt, I would like to show you
 8 what I have marked as Exhibit A-25. Could you
 9 identify this document for the record?
 10 A. This is my curriculum vitae.
 11 MR. ADELMAN: If it is the
 12 Board's pleasure, I was intending to call Mr.
 13 Babbitt and qualify him as an expert in land
 14 planning and fiscal impact studies based upon
 15 his experience and education. I can have him
 16 go through his resume in detail.
 17 If the Board is willing to accept
 18 his qualifications and the other counsel, I
 19 could move forward to his testimony.
 20 MR. MCKENNA: Well, I am aware of
 21 Mr. Babbitt, but let me ask if any counsel or a
 22 party have any objection to Mr. Babbitt being
 23 recognized as an expert?
 24 MS. CAMP: No objection.

1 MR. ADELMAN: I'm sorry.
 2 Specifically, I apologize, land planning and
 3 fiscal impact studies as well I'm asking him to
 4 be qualified.
 5 MR. THOMPSON: I don't have an
 6 objection.
 7 MS. LABRUM: No objections.
 8 MR. MCKENNA: Okay. He will be
 9 admitted as an expert.
 10 MR. ADELMAN: Great. Thank you
 11 very much.
 12 THE WITNESS: Thank you.
 13 BY MR. ADELMAN:
 14 Q. David, briefly, could you tell us what
 15 your involvement is with respect to Toll
 16 Brothers' proposed development of the Crebilly
 17 Farm?
 18 A. I was asked to prepare a fiscal impact
 19 analysis for the proposed development on the
 20 Crebilly Farm property.
 21 Q. I would like to show you what I have
 22 marked as Exhibit A-26. If you could identify
 23 that document for the record, please.
 24 A. Yes, this is the Fiscal Impact Analysis

1 for the Proposed Toll Brothers, Incorporated
 2 Development at Crebilly Farm, dated October
 3 13th, 2016.
 4 Q. And did you prepare and supervise the
 5 preparation of this Fiscal Impact Analysis?
 6 A. I did.
 7 Q. What was the scope of the Fiscal Impact
 8 Analysis?
 9 A. The scope was to examine the revenue
 10 and expenditures of this proposed development
 11 to both the township and the school district.
 12 Q. And, generally, what methodologies did
 13 you analyze in preparing the Fiscal Impact
 14 Analysis?
 15 A. I used the standard methodology for
 16 residential development developed by the
 17 Rutgers University Center For Urban Policy
 18 Research. It is called the Per Capita
 19 Multiplier Method that is for both the township
 20 impact as well as the school district impact.
 21 Q. And is this a methodology you normally
 22 use in preparing such analysis?
 23 A. It is the most common one that I use.
 24 It is not the only one, but it is the most

-01-12-47 **1 common.**
 -01-12-46 **2 Q.** And slowly and clearly, if you could
 -01-12-44 **3** take us through your analysis in terms of an
 41 **4** overview.
 -01-12-40 **5 A. Certainly. Page 2 of the analysis**
 -01-12-34 **6 describes the proposed development and provides**
 -01-12-31 **7 what we call some of the input figures, the**
 -01-12-26 **8 number of units, the average price of the units**
 -01-12-23 **9 and so forth. And there also is an executive**
 -01-12-20 **10 summary at the bottom of page and we will get**
 -01-12-18 **11 to that later.**
 -01-12-17 **12** The assessments and demographics
 -01-12-13 **13** are on page 3.
 -01-12-08 **14** Excuse me.
 -01-12-07 **15** The assessments are determined
 -01-12-06 **16** very simply by multiplying the average price
 -01-12-01 **17** per unit for each of the two dwelling types by
 -01-11-58 **18** the number of dwelling types -- excuse me --
 -01-11-56 **19** the number of units in each dwelling type and
 -01-11-54 **20** then by the common level ratio for Chester
 -01-11-46 **21** County, which is 53.8 percent for that year.
 -01-11-44 **22** That gives us an assessed value of
 -01-11-40 **23** approximately \$125 million total.
 32 **24** The demographics are from a

-01-11-30 **1** document by the Rutgers University crowd called
 -01-11-25 **2** Residential Demographic Multipliers, the
 -01-11-22 **3** Estimates of Occupants of New Housing. This is
 -01-11-19 **4** dated June of 2006. Rutgers University
 -01-11-15 **5** prepared these studies for each of the 50
 -01-11-12 **6** states, plus the District of Columbia, I
 -01-11-10 **7** believe the nation as a whole, perhaps some
 -01-11-08 **8** territories. This one obviously is
 -01-11-06 **9** specifically for Pennsylvania. And it studied
 -01-11-02 **10** units that were built between 1990 and 2000, in
 -01-10-58 **11** the 2000 Census, differentiated by dwelling
 -01-10-54 **12** type, by dwelling size, by dwelling tenure,
 -01-10-51 **13** ownership versus rental, and by dwelling value.
 -01-10-48 **14** These were the four characteristics determined
 -01-10-46 **15** to have the greatest impact on the
 -01-10-43 **16** demographics. And then what it is really
 -01-10-41 **17** simply is provides the demographic multipliers,
 -01-10-37 **18** the number of persons per unit and the number
 -01-10-35 **19** of school-age children per unit for each of the
 32 **20** variety of dwelling types and sizes and values
 -01-10-30 **21** and so forth.
 -01-10-28 **22** It is the standard method of
 -01-10-26 **23** determining the demographics of proposed
 -01-10-23 **24** developments.

-01-10-21 **1** The method of determining the
 -01-10-20 **2** number of persons is by multiplying the
 -01-10-17 **3** demographic multipliers for each dwelling type
 -01-10-15 **4** by the number of units for each dwelling type
 -01-10-12 **5** and adding them all up. The total comes to a
 -01-10-10 **6** projection of 960 residents overall out of the
 -01-10-05 **7** 317 proposed units.
 -01-10-03 **8** For the school-aged children the
 -01-10-00 **9** methodology is very similar. I take the
 -01-09-56 **10** demographic multipliers from the Rutgers study,
 -01-09-55 **11** multiply them by the number of units in each
 -01-09-52 **12** category, and then further multiplied by the
 -01-09-49 **13** percentage of school-aged children in Westtown
 -01-09-45 **14** Township that attend public schools, that
 -01-09-43 **15** number being 77.4 percent coming from the
 -01-09-37 **16** American Community Survey which is a function
 -01-09-35 **17** of the United States Census.
 -01-09-32 **18** So the projection is for 177
 -01-09-29 **19** public school, West Chester Area School
 -01-09-27 **20** District students at build-out and full
 -01-09-24 **21** occupancy.
 -01-09-24 **22 Q.** We can move forward and talk about some
 -01-09-16 **23** of the expenditure numbers that you assumed in
 -01-09-13 **24** your analysis. What did you assume as the

-01-09-11 **1** township's annual expenditures and how did you
 -01-09-08 **2** arrive at that number?
 -01-09-07 **3 A. Well, the methodology here is to**
 -01-09-04 **4 determine the annual operating expenditures for**
 -01-09-02 **5 the township that are specifically attributable**
 -01-08-58 **6 to existing residential developments, divide**
 -01-08-55 **7 that figure by the existing township population**
 -01-08-52 **8 to come up with a per capita multiplier and the**
 -01-08-49 **9 number of dollars that the township spends on**
 -01-08-46 **10 average for each person living in the township.**
 -01-08-42 **11 This, of course, would be based on the 2016**
 -01-08-40 **12 budget because this study was prepared in**
 -01-08-38 **13 October of last year.**
 -01-08-36 **14** The eight funds in the township's
 -01-08-33 **15** budget total about \$12.8 million. However, not
 -01-08-29 **16** all of them are annual operating funds. Many
 -01-08-26 **17** of them are capital funds. Some of them are
 -01-08-23 **18** straight pass-through funds.
 -01-08-22 **19** The three operating funds that we
 -01-08-19 **20** concentrate on are the general fund, the refuse
 -01-08-16 **21** fund and the state highway aid fund. They
 -01-08-13 **22** total approximately \$8.5 million in
 -01-08-10 **23** expenditures for 2016.
 -01-08-06 **24** Certain moneys are subtracted or

01-08-02 1 excluded from that total. They include
 01-07-59 2 pass-through funds, things like state aid for
 01-07-53 3 pensions and for fire protection and for police
 30 4 coverage, developers' reimbursements, things
 01-07-48 5 like that, totaling just shy of \$1 million.

01-07-43 6 The second category of excluded
 01-07-40 7 charges would be development-related funds,
 01-07-37 8 charges that are typically associated with new
 01-07-34 9 development, residential building permits,
 01-07-31 10 commercial building permits, inspections,
 01-07-29 11 hearing fees and such. I only take 90 percent
 01-07-26 12 of those out, based on the assumption that
 01-07-22 13 there will still be ongoing permit activity and
 01-07-19 14 other inspections once a development is built,
 01-07-17 15 but it will be far lower. So that's about
 01-07-13 16 \$134,000 -- excuse me -- \$120,000 that gets
 01-07-09 17 excluded.

01-07-09 18 The third --
 01-07-07 19 Q. I'm sorry, go ahead.
 01-07-06 20 A. The third category of exclusions would
 01-07-03 21 be transfers between funds, because we want to
 01-07-01 22 avoid double counting the same money. The
 01-06-59 23 transfers total \$540,100.

54 24 So if we take all of these

01-06-52 1 excluded funds, the net township operating
 01-06-48 2 expenditures are just shy of \$6.9 million.
 01-06-44 3 Q. David, what is your general basis for
 01-06-41 4 excluding all of those revenues from your
 01-06-38 5 calculations?

01-06-38 6 A. Well, the basis would be different for
 01-06-36 7 each one. For the first one there are
 01-06-33 8 pass-through funds, which means that a dollar
 01-06-32 9 coming in equals a dollar going out. There is
 01-06-28 10 very little that the township has to do
 01-06-26 11 regarding that money.

01-06-22 12 For pension aid, for example, it
 01-06-21 13 is coming in from the state for a specific
 01-06-19 14 function and it is being expended on
 01-06-17 15 specifically that function and no other. So it
 01-06-14 16 is really equal. I could have added them or
 01-06-11 17 included them, and then there would have been a
 01-06-05 18 revenue source to cover those as well, and,
 01-06-02 19 again, they would have canceled each other out.

0 20 The funds transferred, if we want
 01-05-58 21 to avoid double counting money, so this is
 01-05-55 22 money transferring from one fund to another, so
 01-05-53 23 we don't want to count the same amount of money
 01-05-50 24 twice as expenditures in two funds when it is

01-05-48 1 really moving just from one to the other.
 01-05-46 2 And then the middle of the three
 01-05-44 3 is excluded because essentially they are
 01-05-42 4 one-time, upfront, pass-through funds that are
 01-05-38 5 typically associated with new development, that
 01-05-35 6 will not be ongoing annual township
 01-05-32 7 expenditures. So building permits is the best
 01-05-30 8 example. Once a building is built and occupied
 01-05-27 9 there is not going to be a great deal more in
 01-05-25 10 revenue or expenditures for the building
 01-05-23 11 permits for that particular building, of
 01-05-20 12 course.

01-05-20 13 So these are all pass-through.
 01-05-18 14 We are trying to avoid double counting.
 01-05-16 15 Q. And what did you assume in terms of the
 01-05-13 16 township's annual revenue?

01-05-11 17 A. Well, we are not done with expenditures
 01-05-09 18 yet.

01-05-09 19 Q. I'm sorry. Please go ahead.
 01-05-07 20 A. Once we get the net operating
 01-05-04 21 expenditures of almost \$6.9 million, the next
 01-05-00 22 step is to subtract those expenditures that are
 01-04-58 23 attributable to existing nonresidential
 01-04-53 24 development. That is a series of calculations

01-04-50 1 using what is called the Proportional Valuation
 01-04-47 2 Method, again, based on the Rutgers University
 01-04-44 3 model, involving the calculations based on the
 01-04-38 4 assessed value of properties in the township,
 01-04-35 5 using a refining coefficient.

01-04-32 6 The result of the calculations is
 01-04-30 7 that 27.8 percent of the net township
 01-04-28 8 expenditures would be attributable to existing
 01-04-23 9 nonresidential development. That's about \$1.9
 01-04-18 10 million. That gets subtracted from the net of
 01-04-15 11 \$6.9 million. And whatever is left, which is
 01-04-10 12 just shy of \$5 million, is operating
 01-04-06 13 expenditures attributable to existing township
 01-04-04 14 population. We simply divide by the
 01-04-02 15 population, which was estimated in that year of
 01-03-58 16 10,898, and we come up with a per capita
 01-03-55 17 operating expenditure of \$455.16.

01-03-49 18 And we simply apply that to the
 01-03-46 19 960 prospective residents of the proposed
 01-03-42 20 development at build-out and full occupancy,
 01-03-39 21 and we reach a projection of township
 01-03-36 22 expenditures totaling \$436,834. It averages
 01-03-29 23 out to \$1,593 for the single-family homes and
 01-03-21 24 \$1,010 per year for the carriage homes. That's

1 **the annual township expenditures.**
 2 **Q.** Okay. Let's move on to the annual
 3 township revenues. And how did you calculate
 4 them in your analysis?
 5 **A.** Revenue analysis starts on page 8 of
 6 the report and it is bullet points for each
 7 revenue source, the first being the real estate
 8 tax revenue, based on the township's tax rate
 9 3.5 mills, applied to the proposed
 10 development's assessed value of nearly \$125
 11 million, so the annual real estate tax is
 12 projected to be about \$437,000 per year for
 13 this development.
 14 That alone you may recall is
 15 almost the entire annual township expenditures.
 16 So the real estate tax nearly covers all of the
 17 expenditures.
 18 The next revenue category is the
 19 earned income tax, that's the one-half percent
 20 tax that goes to the township. And that is
 21 determined based on the value of housing and
 22 the Fannie Mae criteria that no more than 28
 23 percent of the household's income be used
 24 towards housing costs. Housing costs are the

1 mortgage, taxes, homeowners' insurance and --
 2 homeowners' association fees, rather, and
 3 homeowners' insurance.
 4 Using the mortgage rates that
 5 were in effect last year in October from
 6 Freddie Mac, the annual household income
 7 necessary to afford the single-family homes was
 8 about \$196,000 and about \$152,000 for the
 9 carriage homes.
 10 The fact that the mortgage rates
 11 have gone up since then means that the revenue
 12 from this category is actually going to be
 13 higher now than it was last year.
 14 Also, I will note that the
 15 calculation of earned income tax revenue is
 16 based on the assumption that the household has
 17 the minimum level of earned income necessary to
 18 afford the house, the mortgage, the taxes, the
 19 insurance and the homeowners' association fees.
 20 Obviously, most homeowners, families,
 21 households will have significantly higher
 22 levels of earned income and, therefore, the
 23 earned income tax revenue will be higher.
 24 But based on these assumptions of

1 absolute bare minimum, the earned income tax
 2 revenue is projected to be about \$284,000 for
 3 the proposed development.
 4 The next category is the real
 5 estate transfer tax revenue, based on a half a
 6 percent of the market value of the units, not
 7 the assessed value, determined simply by
 8 applying the half percent tax rate by the
 9 number of units, by the market value of those
 10 units, and by the assumption of housing
 11 turnover rates of 5 percent per year for the
 12 single homes, 10 percent per year for the
 13 carriage homes, that would yield an annual
 14 revenue of just shy of \$76,000.
 15 There is another real estate
 16 transfer tax revenue that would be the initial
 17 tax revenue from the initial sales of the homes
 18 from the builder to whoever buys them the very
 19 first time. That is not a quantifiable,
 20 ongoing annual revenue. That is a one-time,
 21 upfront annual revenue that will total
 22 approximately \$1.2 million.
 23 In the past I have always
 24 recommended that municipalities use that and

1 earmark that for capital expenditures. It will
 2 take place over the build-out period, which is
 3 likely to be several years, and it is separate
 4 from the annual ongoing real estate transfer
 5 tax revenue of \$76,000.
 6 There is some additional revenue
 7 from the refuse collection fee, \$320 per unit,
 8 comes up to approximately \$101,000 per year.
 9 There is some franchise fees, cable TV and
 10 such, some miscellaneous revenue, and also some
 11 revenue from the liquid fuels state E base that
 12 total \$21,550 for the proposed development.
 13 I'm sorry. The state highway aid
 14 is a different number and that is \$29,413 for
 15 the proposed development.
 16 So we add up all of these revenue
 17 sources and we come to \$949,637 for the
 18 proposed development, which translates to
 19 annual revenue of \$3,187 for the single-family
 20 detached homes and \$2,669 for the carriage
 21 homes.
 22 So then we take the total revenue
 23 minus the total expenditures to give us the net
 24 impact. The annual net impact is projected to

00:58:30 1 be positive \$512,803 per year, which means that
 00:58:24 2 regardless of how much money that will be spent
 00:58:20 3 on this development, the development is
 19 4 projected to create revenue that exceeds the
 00:58:15 5 expenditures by more than a half million
 00:58:14 6 dollars per year for the township.

00:58:12 7 That net revenue projects to
 00:58:06 8 positive \$1,595 -- excuse me -- \$1,594 per unit
 00:58:02 9 for the single homes and positive \$1,658 for
 00:57:56 10 the carriage homes.

00:57:56 11 In essence, the annual revenue
 00:57:53 12 doubles the annual expenditures. It is not
 00:57:49 13 terribly close. It is a pretty much exactly
 00:57:46 14 double the annual expenditures.

00:57:44 15 Q. Did you also do a similar analysis with
 00:57:42 16 respect to the fiscal impact regarding the
 00:57:39 17 school district?

00:57:36 18 A. Yes, I did. The methodology is the
 00:57:34 19 same, but some of the sources are slightly
 00:57:32 20 different. The 2016-17 school year budget, so
 00:57:28 21 it is last year's budget, was \$237 million. I
 00:57:24 22 subtracted a handful of pass-through items,
 00:57:19 23 revenues from intermediary sources, this is
 17 24 money from other school districts to teach

00:57:14 1 students that get sent here, rentals, tuition
 00:57:12 2 from patrons and so forth, of about 2.5
 00:57:08 3 million.

00:57:07 4 So the net expenditures are about
 00:57:04 5 \$235 million, divided by the district-wide
 00:56:58 6 enrollment last year of 11,423 students. That
 00:56:54 7 gives us the net expenditure of \$20,569 per
 00:56:48 8 student.

00:56:46 9 This is an extraordinarily
 00:56:44 10 conservative projection, conservative in the
 00:56:41 11 sense that it tends to overestimate rather
 00:56:38 12 significantly the expenditures for each
 00:56:35 13 student. It assumes that each new student is
 00:56:33 14 going to cost the same amount as all of the
 00:56:31 15 existing students, and does not take into
 00:56:28 16 effect things like the build environment or
 00:56:24 17 sunk costs of certain employees of the district
 00:56:22 18 that will not need to be expanded or multiplied
 00:56:18 19 by virtue of the fact that there will be new
 16 20 students.

00:56:15 21 There will not need to be an
 00:56:14 22 entire new administrative staff, for example.
 00:56:12 23 We will get to some other much more reasonable
 00:56:07 24 expenditures per student a little bit later on.

00:56:04 1 But using this extremely conservative high
 00:56:01 2 projection for expenditures, the projection
 00:55:58 3 would be \$3.6 million per year in expenditures
 00:55:55 4 for the School District, translated to \$16,244
 00:55:48 5 per year per unit for the single homes, \$3,344
 00:55:43 6 for the carriage homes.

00:55:41 7 The difference is largely a
 00:55:39 8 result of demographics. Far more school-age
 00:55:36 9 children live in the single homes, four-bedroom
 00:55:33 10 single homes than live in the three-bedroom
 00:55:31 11 attached houses, on average.

00:55:29 12 Q. What did you determine with respect to
 00:55:28 13 the annual revenue to the School District per
 00:55:24 14 unit?

00:55:24 15 A. The revenue sources are similar to
 00:55:22 16 those for the township. We have the real
 00:55:21 17 estate tax revenue using the School District's
 00:55:18 18 tax rate of 20.0982 mills, again, from last
 00:55:14 19 school year. That gives us projection of
 00:55:10 20 revenue of \$2.5 million per year.

00:55:07 21 The earned income tax will be the
 00:55:05 22 same as for the township, so that's \$284,000
 00:55:00 23 per year. The real estate transfer tax, again,
 00:54:58 24 will be the same as for the township. That

00:54:55 1 will total just shy of \$76,000 per year. And
 00:54:51 2 similar to the township there will be a
 00:54:48 3 one-time, up-front capital revenue, we can call
 00:54:45 4 it, of \$1.16 million to the School District
 00:54:40 5 over the build-out period.

00:54:38 6 There is state and federal
 00:54:35 7 revenue based on what the School District
 00:54:32 8 receives from those sources in last year's
 00:54:29 9 budget, divided by the enrollment, which gives
 00:54:26 10 us \$3,602 per pupil, which is applied to the
 00:54:22 11 number of students projected to come from the
 00:54:19 12 proposed development. That revenue source
 00:54:16 13 totals \$637,000 per year.

00:54:13 14 And then there is a little bit of
 00:54:11 15 interest earnings projected to total just shy
 00:54:07 16 of \$3,000 per year. So the annual School
 00:54:03 17 District revenue from all sources would
 00:54:00 18 approximate \$3.5 million per year, so that
 00:53:55 19 would be \$12,794 per year per unit for the
 00:53:50 20 single homes, \$8,139 per year per unit for the
 00:53:45 21 carriage homes.

00:53:44 22 The net impact, again, taking the
 00:53:39 23 revenue, subtracting the expenditures, is
 00:53:36 24 projected to be negative or deficit \$128,949

00-53-29 1 for the proposed development. The real reason
 00-53-25 2 is because of the single homes. The single
 00-53-24 3 homes are projected to result in negative
 20 4 impact of \$3,450 per unit per year. But a
 00-53-13 5 positive annual impact of \$4,795 for the
 00-53-08 6 carriage homes. Again, the difference being on
 00-53-06 7 the expenditure side because the single homes
 00-53-01 8 house far more children.

00-52-59 9 The annual expenditures are
 00-52-54 10 projected to exceed the annual revenue by 21.2
 00-52-48 11 percent for the single-family detached homes.
 00-52-42 12 But the annual revenue is projected to exceed
 00-52-40 13 annual expenditures by -- oh, I'm sorry. Let
 00-52-30 14 me back up.

00-52-29 15 The annual, annual overall, cross
 00-52-24 16 all units, the annual expenditures are
 00-52-23 17 projected to exceed annual revenue by a very
 00-52-20 18 small amount, 3.5 percent for the entire
 00-52-18 19 development. That I would like to suggest is a
 00-52-14 20 very small amount, very small percentage. And
 00-52-11 21 because we are basing a lot of these
 00-52-08 22 calculations on projections and estimates, to
 00-52-05 23 me that is well within the margin of error,
 -04 24 probably within about 5 percent to be within

00-52-01 1 the margin of error.
 00-52-00 2 **Q.** David, let me just interrupt. Did I
 00-51-58 3 miss your calculations with respect to the net
 00-51-56 4 fiscal impact on the carriage unit with respect
 00-51-53 5 to the School District?

00-51-52 6 **A. Yes, but I will tell you again. It is**
 00-51-48 7 **positive \$4,795 per unit for the carriage**
 00-51-44 8 **homes.**

00-51-38 9 **Q.** Do you know if the township has
 00-51-36 10 reviewed your fiscal impact analysis?

00-51-35 11 **A. Yes, the township has.**

00-51-33 12 **Q.** And I believe that was reviewed by Mr.
 00-51-29 13 Todd Poole; is that correct?

00-51-27 14 **A. That would be correct.**

00-51-26 15 **Q.** And the township has marked that
 00-51-25 16 Exhibit B-17, for the record. And do you know
 00-51-21 17 if the School District has reviewed at least on
 00-51-19 18 a cursory level your fiscal impact analysis?

00-51-16 19 **A. Yes, I believe it has.**

14 20 **Q.** And, Andrew, if we could put up
 00-51-11 21 Exhibit A-27 on the screen.

00-51-03 22 David, if you could please
 00-51-02 23 identify Exhibit A-27 for the record.

00-50-58 24 **A. A-27 is the executive summary of the**

00-50-55 1 **proposed development fiscal impact analysis.**
 00-50-52 2 **It is, it is the same as -- it is slightly**
 00-50-42 3 **different format as the chart, the table that**
 00-50-40 4 **is on page 2 of the actual Fiscal Impact**
 00-50-37 5 **Analysis which was A-26, I believe.**

00-50-35 6 **Q.** And does A-27 consist of three sheets,
 00-50-31 7 separate sheets; is that correct?

00-50-28 8 **A. It does.**

00-50-27 9 **Q.** Would you take us through the second
 00-50-24 10 page of Exhibit A-27 and what that details?

00-50-19 11 **A. Yes. As I mentioned earlier, the**
 00-50-17 12 **School District reviewed the fiscal impact**
 00-50-13 13 **analysis and came to a significantly different**
 00-50-07 14 **expenditure projection. This expenditure**
 00-50-03 15 **projection is labeled here as being from the**
 00-49-59 16 **Scanlon report. It is based on largely the**
 00-49-56 17 **educational expenditures per student in the**
 00-49-54 18 **district, considering the vast majority of**
 00-49-50 19 **students will be standard, regular students,**
 00-49-48 20 **and a handful will be special needs students,**
 00-49-46 21 **which require greater expenditures.**

00-49-43 22 That number comes to \$13,955 per
 00-49-39 23 student. Once again, my much more
 00-49-37 24 conservative, much higher projection was

00-49-34 1 \$20,569 per student. And you can see that when
 00-49-30 2 you multiply these numbers out by the number of
 00-49-25 3 students projected from the proposed
 00-49-24 4 development, approximately 177, I believe it is
 00-49-18 5 yes, 177, the difference in the annual
 00-49-15 6 expenditures is between 3.6 million and 2.4
 00-49-10 7 million dollars. It is literally a third
 00-49-08 8 lower.

00-49-06 9 **Q.** So, David, would you then say that your
 00-49-06 10 analysis is more conservative than what you saw
 00-49-02 11 analyzed by the School District?

00-49-01 12 **A. On the expenditure side, yes, vastly**
 00-48-56 13 **more conservative. I would trust Dr. Scanlon's**
 00-48-55 14 **expenditure numbers intensely.**

00-48-52 15 **Q.** And if then we could move to the third
 00-48-50 16 slide or third page of Exhibit A-27. If,
 00-48-45 17 David, you could detail, describe in detail
 00-48-42 18 this portion of the exhibit, please.

00-48-40 19 **A. All right. All this does is use the**
 00-48-37 20 **School District's expenditure per student,**
 00-48-34 21 **multiplied by the same number of students for**
 00-48-31 22 **each dwelling type, and that gives us annual**
 00-48-28 23 **expenditures of just over \$1 million.**

00-48-23 24 By comparison -- excuse me.

00-48-20 1 That's the net. This would be the same level
00-48-17 2 of revenue as in my report, different levels of
00-48-13 3 expenditures, using the School District's
10 4 figure.

00-48-09 5 The net now is a positive figure
00-48-06 6 of more than \$1 million compared to the
00-48-04 7 negative number that was in my report of
00-48-01 8 \$128,949.

00-47-58 9 Q. That's just with respect to
00-47-57 10 single-family homes, correct?

00-47-55 11 A. No, that would be for all units,
00-47-54 12 1,041,502.

00-47-50 13 Q. I thought your prior testimony was that
00-47-48 14 there is a small net positive fiscal impact to
00-47-44 15 the School District under your analysis for
00-47-42 16 both carriage homes and single families; is
00-47-38 17 that correct?

00-47-38 18 A. There is a net fiscal surplus for the
00-47-34 19 carriage homes for the School District in my
00-47-32 20 analysis.

00-47-31 21 Q. Right.

00-47-31 22 A. But the single homes resulted in a net
00-47-28 23 deficit.

27 24 Q. Correct.

00-47-26 1 A. That, again, is a function of the much
00-47-25 2 higher conservative level of expenditures.
00-47-21 3 Using the School District's level of
00-47-19 4 expenditures now all of the numbers are
00-47-17 5 positive or surplus for the School District,
00-47-14 6 both for the single homes and for the carriage
00-47-12 7 homes.

00-47-12 8 Q. And then could you explain the
00-47-10 9 differential in the revenue numbers?

00-47-07 10 A. I do not believe there are any
00-47-05 11 differences in the revenue numbers. The
00-47-03 12 revenue numbers are going to be the same. The
00-47-02 13 expenditure numbers are going to be different.
00-47-00 14 And that is the basis of this table.

00-46-58 15 MR. MCKENNA: Mr. Adelman, can I
00-46-56 16 ask a real quick question on that topic?

00-46-54 17 Mr. Babbitt, I understand you
00-46-53 18 used, if I'm examining A-27 correctly, I admit
00-46-48 19 I'm confused on this third page, using Dr.
46 20 Scanlon's expenditure numbers, is that right,
00-46-42 21 but your revenue numbers?

00-46-38 22 THE WITNESS: Yes, correct, yes.

00-46-37 23 MR. MCKENNA: Okay. Can you
00-46-36 24 explain why you used your revenue numbers and

00-46-33 1 not Dr. Scanlon's revenue numbers?

00-46-30 2 THE WITNESS: I can. I believe
00-46-28 3 that the revenue figures that I used are more
00-46-25 4 accurate. They are based more on the proposed
00-46-22 5 development instead of things like
00-46-19 6 district-wide averages, in terms of such
00-46-16 7 subjects as the average value of homes
00-46-13 8 throughout the district. My study is based
00-46-10 9 more on the proposed development, which in my
00-46-08 10 opinion is what it should be based on because
00-46-06 11 that is the topic of the Fiscal Impact
00-46-02 12 Analysis. It is not an analysis of the entire
00-46-00 13 School District. It is an analysis of this
00-45-58 14 particular proposed development.

00-45-56 15 MR. MCKENNA: Were your revenue
00-45-55 16 numbers higher than Dr. Scanlon's revenue
00-45-52 17 numbers.

00-45-51 18 THE WITNESS: In some instances,
00-45-51 19 yes.

00-45-50 20 MR. MCKENNA: Overall were they
00-45-49 21 higher? Do you recall?

00-45-48 22 THE WITNESS: Yes.

00-45-48 23 MR. MCKENNA: Okay. Thank you.

00-45-42 24

1 BY MR. ADELMAN:

00-45-42 2 Q. We have been talking about Dr.
00-45-40 3 Scanlon's numbers. When you reviewed Mr.
00-45-36 4 Poole's study what were your conclusions with
00-45-34 5 respect to his analysis in Exhibit B-17? You
00-45-25 6 don't have to do specific numbers. In general,
00-45-23 7 if you can testify.

00-45-22 8 A. I have it here somewhere. But Mr.
00-45-19 9 Poole's analysis was based on a slightly
00-45-17 10 different methodology called the Case Study
00-45-13 11 Method for both the township expenditures and
00-45-11 12 the School District expenditures. However,
00-45-07 13 regardless of the fact that it was a slightly
00-45-06 14 different methodology, we wound up to be almost
00-45-02 15 exactly in the same place, a significant annual
00-44-56 16 surplus for the township. And I believe since
00-44-53 17 he used Dr. Scanlon's expenditure figures for
00-44-49 18 the School District he wound up with a
00-44-48 19 significant annual surplus for the School
00-44-45 20 District as well.

00-44-43 21 MR. ADELMAN: I have nothing
00-44-42 22 further for Mr. Babbitt at this time.

00-44-40 23 MR. MCKENNA: All right. We will
00-44-36 24 move to cross-exam. We will start with the

00:44:33 1 Planning Commission.
 00:44:32 2 CROSS-EXAMINATION
 00:44:31 3 BY MS. CAMP:
 00:44:31 4 Q. Thank you. Mr. Babbitt, you conclude
 00:44:28 5 that the impact on the school from the carriage
 00:44:26 6 houses is less under Plan A, that there is a
 00:44:22 7 negative fiscal impact for the School District
 00:44:20 8 of \$128,949 for the single-family dwellings.
 00:44:16 9 Could Toll address this by reducing the number
 00:44:13 10 of single-family dwellings and increasing the
 00:44:11 11 number of carriage homes that are built in the
 00:44:09 12 community? Wouldn't that have less of a
 00:44:07 13 negative impact upon the School District if
 00:44:04 14 they were to change the mix of the units?
 00:44:02 15 A. I'm not sure if that would be the case
 00:43:59 16 if we are using Dr. Scanlon's expenditure
 00:43:57 17 figures.
 00:43:57 18 Q. Using your expenditure figures?
 00:43:54 19 A. Yes, it would be the case.
 00:43:53 20 Q. Okay. When you prepared your analysis
 00:43:49 21 did you interview any public officials at the
 00:43:46 22 township who are knowledgeable of the local
 00:43:44 23 services and the capacity of the local services
 00:43:42 24 to handle the impact of the development?

00:43:38 1 A. No.
 00:43:38 2 Q. Are you aware if the township expects
 00:43:36 3 to hire additional employees in the finance
 00:43:34 4 department or public works department to handle
 00:43:32 5 the impacts from the development?
 00:43:30 6 A. Only from Mr. Poole's study.
 00:43:27 7 Q. So your analysis would not have taken
 00:43:25 8 that into consideration in the cost for hiring
 00:43:23 9 new employees?
 00:43:22 10 A. No, it certainly would have taken it
 00:43:20 11 into consideration, because it is based on an
 00:43:17 12 average costing technique. There are
 00:43:16 13 expenditures in my analysis, and that's why
 00:43:12 14 that number is rather significant, annual
 00:43:09 15 expenditure.
 00:43:09 16 What it does not do is identify
 00:43:06 17 which employees or which positions they might
 00:43:03 18 hold. It simply assumes that the level of
 00:43:00 19 expenditure that the township spends now for
 00:42:57 20 each resident will be applied to the future
 00:42:55 21 residents.
 00:42:54 22 Q. Okay. In your analysis, you didn't
 00:42:48 23 speak to this in your testimony, but your
 00:42:46 24 analysis assumes that the roads in this

00:42:44 1 development would be public roads; is that
 00:42:41 2 correct?
 00:42:41 3 A. Yes, it does.
 00:42:41 4 Q. You indicate if they were private
 00:42:40 5 roads, then one of the sources of revenue,
 00:42:40 6 liquid fuels, would not be coming to the
 00:42:37 7 township, correct?
 00:42:37 8 A. That would be true. On the other side
 00:42:35 9 of the equation, however, there would be
 00:42:34 10 presumably less in the way of township
 00:42:32 11 expenditures for road maintenance in this
 00:42:29 12 development.
 00:42:29 13 Q. Did your report take into account that
 00:42:26 14 some of the school-aged children would be
 00:42:24 15 special education students whose costs would be
 00:42:21 16 significantly higher?
 00:42:19 17 A. Yes, because, again, it is an average
 00:42:17 18 costing technique and it, therefore, assumes
 00:42:14 19 costs across all students in the district right
 00:42:11 20 now, some of whom are special needs students.
 00:42:09 21 Q. I'm a little confused on Exhibit A-27.
 00:42:06 22 The third, the second page, when you said the
 00:42:03 23 Scanlon report shows the per student
 00:42:01 24 expenditure of 13,955, you are saying that that

00:41:57 1 number is an average of students who are
 00:41:52 2 special needs students and students who are
 00:41:50 3 not?
 00:41:49 4 A. Both Dr. Scanlon's number and my number
 00:41:46 5 take into account the fact that some students
 00:41:42 6 will be special needs students, at higher
 00:41:39 7 expenditure levels, yes.
 00:41:38 8 Q. Did you review the memorandum that Todd
 00:41:33 9 Poole received from Mr. Scanlon, dated January
 00:41:31 10 25th, 2017, where he, Mr. Poole, was relying
 00:41:26 11 upon information that Dr. Scanlon had provided
 00:41:24 12 for the cost of the students? Are those the
 00:41:22 13 numbers you were using?
 00:41:21 14 A. January 27th?
 00:41:19 15 Q. Yes.
 00:41:18 16 A. Yes, I reviewed that document.
 00:41:18 17 Q. So in that memorandum, again, this is
 00:41:15 18 Mr. Poole providing information that he
 00:41:13 19 received from Dr. Scanlon, he indicated that
 00:41:07 20 for regular education students, approximately
 00:41:05 21 11,762, and for special education students,
 00:41:01 22 29,727.
 00:40:59 23 So I guess I'm just confused.
 00:40:57 24 The 13,955 shown on page 2 of Exhibit 27, is

00:40:53 1 that the average from those two numbers in the
 00:40:50 2 memorandum? I'm not understanding about the
 00:40:46 3 13,955.
 42 4 **A. It is calculated by multiplying 11,762**
 00:40:37 5 **times 151 regular education students, and**
 00:40:32 6 **adding 29,727 by -- times 21 special education**
 00:40:24 7 **students, and then that sum divided by 172**
 00:40:18 8 **students.**
 00:40:18 9 **Q.** That's how you got the 13,955. Okay.
 00:40:15 10 **A. 13,955.40.**
 00:40:13 11 **Q.** Okay. I just wanted to check that.
 00:40:09 12 Have you reviewed any of the conditional use
 00:40:07 13 standards in the Zoning Ordinance for the
 00:40:05 14 applicant?
 00:40:04 15 **A. Not lately, no.**
 00:40:03 16 **Q.** One of the standards requires the
 00:40:00 17 applicant to provide evidence that it
 00:39:57 18 considered the impact of the development of the
 00:39:55 19 public school system, and I assume that's why
 00:39:53 20 you prepared the fiscal analysis; is that
 00:39:50 21 correct?
 00:39:50 22 **A. Yes, in part.**
 00:39:50 23 **Q.** Okay. And also part of the
 47 24 requirements requires that, where necessary,

00:39:44 1 adequate arrangements for expansion or
 00:39:42 2 improvement of the school system are assured.
 00:39:39 3 What, if any, arrangements for expansion or
 00:39:35 4 improvement would Toll be offering to the
 00:39:34 5 school district as a result of your analysis?
 00:39:31 6 **A. Well, as a result of the analysis, the**
 00:39:28 7 **applicant would be offering \$3.5 million per**
 00:39:22 8 **year in annual ongoing revenue, on top of \$1.2**
 00:39:15 9 **million in capital revenue during the build-out**
 00:39:12 10 **period to the School District.**
 00:39:10 11 I do not, I am not presumptuous
 00:39:07 12 enough to be able to tell the School District
 00:39:05 13 how to spend the money that is coming its way
 00:39:02 14 with this development. My task is merely to
 00:38:59 15 project the number of dollars in revenue, as
 00:38:55 16 well as in expenditures.
 00:38:49 17 **Q.** So other than the revenue sources there
 00:38:44 18 is no additional measures proposed? I mean
 00:38:42 19 that is what is being proposed, just through
 10 20 the revenue that would come from the
 00:38:38 21 development and the taxes from the residents?
 00:38:34 22 There is no additional measures to be provided
 00:38:30 23 to the School District?
 00:38:29 24 **A. I'm not sure I understand. You mean is**

00:38:27 1 **the applicant offering land or construction of**
 00:38:25 2 **a building or something like that?**
 00:38:24 3 **Q.** Correct.
 00:38:23 4 **A. Not to the best of my knowledge.**
 00:38:21 5 MS. CAMP: Okay. I have nothing
 00:38:20 6 further.
 00:38:19 7 MR. MCKENNA: Thank you, Ms.
 00:38:16 8 Camp.
 00:38:15 9 So Birmingham Township, Mr.
 00:38:13 10 Crawford is not here this evening. We will
 00:38:12 11 move to Thornbury and to Ms. Labrum.
 00:38:09 12 MS. LABRUM: No questions of this
 00:38:08 13 witness.
 00:38:08 14 MR. MCKENNA: Thank you.
 00:38:06 15 Neighbors for Crebilly with Mr. Thompson.
 00:38:03 16 CROSS-EXAMINATION
 00:38:03 17 BY MR. THOMPSON:
 00:38:01 18 **Q.** Concerning sewage disposal, did you
 00:37:57 19 take into account the proposed sewage disposal
 00:37:54 20 for the plan, that would be the on-lot sewage
 00:37:47 21 disposal?
 00:37:46 22 **A. No, that is not included in this**
 00:37:45 23 **analysis. It is not one of the three operating**
 00:37:41 24 **funds that would pertain to this development.**

00:37:38 1 **Q.** So you didn't take into account any
 00:37:36 2 possible township expenditures related to
 00:37:34 3 sewage disposal?
 00:37:29 4 **A. Not directly, no.**
 00:37:27 5 **Q.** Okay. And your report talks about a
 00:37:23 6 Plan A and a Plan B. You have testified
 00:37:21 7 tonight only to Plan A; is that correct?
 00:37:19 8 **A. Thus far, yes.**
 00:37:18 9 **Q.** And what is Plan B?
 00:37:15 10 **A. Plan B is an alternative development**
 00:37:12 11 **scenario.**
 00:37:05 12 **Q.** It is a separate plan? Is that the
 00:37:03 13 plan that allows for increased density?
 00:37:01 14 **A. It totals 395 units. Whether it is a**
 00:36:57 15 **separate plan or not, I cannot say. Whether it is**
 00:36:53 16 **being handled as part of the same**
 00:36:52 17 **application, I do not know.**
 00:36:50 18 **MR. THOMPSON: Okay. I don't**
 00:36:49 19 **have any further questions.**
 00:36:49 20 MR. MCKENNA: Okay. Mr. DuFault,
 00:36:42 21 for Brandywine at Thornbury HOA?
 00:36:39 22 MR. DUFAULT: Present, but I have
 00:36:38 23 no questions.
 00:36:37 24 MR. MCKENNA: Radley Run III HOA,

00:36:34 **1** Mr. Martin or Mr. Bertinetti?
 00:36:31 **2** Arborview HOA, Mr. Hoffman?
 00:36:23 **3** West Glen HOA, Mr. Bevilacqua?
 00:36:17 **4** MR. BEVILACQUA: No questions.
 00:36:16 **5** MR. MCKENNA: West Chester School
 00:36:14 **6** District, Mr. Bevilacqua or Dr. Scanlon?
 00:36:11 **7** DR. SCANLON: Yes. Thank you,
 00:35:59 **8** Mr. Babbitt, for your report. I had a chance
 00:35:57 **9** to look through that. And I know you have to
 00:35:55 **10** make assumptions. We have to make assumptions,
 00:35:52 **11** enrollment projections, as we go through
 00:35:49 **12** demographic studies as well.
 00:35:47 **13** In your report you assumed 177
 00:35:44 **14** public school students out of the development I
 00:35:41 **15** believe for the, I looked at 317-unit
 00:35:37 **16** development?
 00:35:37 **17** THE WITNESS: That's correct.
 00:35:35 **18** DR. SCANLON: Correct. Okay.
 00:35:33 **19** How many students, and you mentioned the
 00:35:31 **20** Rutgers study, you have used some of the
 00:35:28 **21** information out of the Rutgers study, how many
 00:35:24 **22** students per three-bedroom home were you using
 00:35:22 **23** from that report per ratio?
 00:35:18 **24** THE WITNESS: The Rutgers study

00:35:16 **1** shows that three-bedroom, basically townhouses,
 00:35:13 **2** high-end townhouses for sale in Pennsylvania
 00:35:09 **3** generate on average 0.21 school-aged children
 00:35:04 **4** per unit.
 00:35:03 **5** DR. SCANLON: 0.21?
 00:35:01 **6** THE WITNESS: That's correct.
 00:35:00 **7** DR. SCANLON: Okay. All right.
 00:34:59 **8** That's in Pennsylvania?
 00:34:57 **9** THE WITNESS: It is.
 00:34:57 **10** DR. SCANLON: That's an
 00:34:56 **11** assumption you have got to make in
 00:34:55 **12** Pennsylvania?
 00:34:55 **13** THE WITNESS: I'm sorry, your
 00:34:54 **14** voice is not coming through this speaker, so
 00:34:52 **15** I'm having a little bit of trouble hearing you.
 00:34:50 **16** DR. SCANLON: Okay. Can you hear
 00:34:49 **17** me all right?
 00:34:48 **18** THE WITNESS: A little bit.
 00:34:48 **19** Okay.
 00:34:45 **20** DR. SCANLON: Okay. That's an
 00:34:44 **21** assumption for Pennsylvania, correct?
 00:34:44 **22** THE WITNESS: Yes, it is.
 00:34:42 **23** DR. SCANLON: All right. Did you
 00:34:39 **24** know that in our School District, in West

00:34:37 **1** Chester, we are a little different than
 00:34:35 **2** Pennsylvania, because Pennsylvania has
 00:34:34 **3** declining enrollment with students, and that
 00:34:32 **4** West Chester is bucking that trend with some of
 00:34:28 **5** the programs we have, and the studies we have
 00:34:25 **6** done use .51 for three-bedroom unit, is what we
 00:34:21 **7** use.
 00:34:20 **8** How many for the four-bedroom
 00:34:18 **9** homes, what does the Rutgers study use for
 00:34:15 **10** Pennsylvania there?
 00:34:14 **11** THE WITNESS: School-age children
 00:34:13 **12** per unit would be 1.02.
 00:34:10 **13** DR. SCANLON: That's what we use,
 00:34:08 **14** yes, that matches.
 00:34:07 **15** And then how many for, the
 00:34:04 **16** carriage homes in the report, how many total
 00:34:02 **17** just out of the carriage homes?
 00:34:01 **18** THE WITNESS: How many?
 00:34:00 **19** DR. SCANLON: How many total
 00:33:59 **20** students?
 00:33:58 **21** THE WITNESS: Well, school-aged
 00:33:55 **22** children would be 25, of whom 19 would be
 00:33:51 **23** projected to be public school students.
 00:33:48 **24** DR. SCANLON: Okay. And that was

00:33:46 **1** using the 77 percent market share I think you
 00:33:44 **2** used?
 00:33:43 **3** THE WITNESS: 77.4 percent, which
 00:33:41 **4** is the number specifically for Westtown, yes.
 00:33:33 **5** DR. SCANLON: Okay. You
 00:33:32 **6** mentioned some state funding that we would get,
 00:33:28 **7** \$3,000 per student you said based on state
 00:33:25 **8** formulas.
 00:33:24 **9** THE WITNESS: State and federal,
 00:33:23 **10** yes.
 00:33:23 **11** DR. SCANLON: What, where did you
 00:33:21 **12** pull that from, that information?
 00:33:19 **13** THE WITNESS: That's from the
 00:33:18 **14** 2016-17 budget. The total revenue from the
 00:33:14 **15** state, plus the total revenue from the federal
 00:33:12 **16** government, divided by the total enrollment.
 00:33:09 **17** DR. SCANLON: Okay. The total
 00:33:08 **18** revenue. That wasn't the increase in the
 00:33:04 **19** revenue that came. Okay. Got you.
 00:33:03 **20** THE WITNESS: What it is is
 00:33:02 **21** simply that is what the School District gets on
 00:33:00 **22** average per student right now. And I'm
 00:32:57 **23** applying that same revenue to the prospective
 00:32:54 **24** future students.

00:32:53 1 DR. SCANLON: Okay. But you
 00:32:52 2 weren't aware the last five years those numbers
 00:32:50 3 have been reduced from the state and federal
 48 4 for our budget?
 00:32:47 5 THE WITNESS: Actually, that's
 00:32:46 6 not accurate, Dr. Scanlon. The number actually
 00:32:43 7 has gone up significantly. The percentage of
 00:32:39 8 the total education costs covered by state
 00:32:37 9 funding, that has gone down.
 00:32:35 10 DR. SCANLON: Yes.
 00:32:34 11 THE WITNESS: But the actual
 00:32:33 12 number from the state has gone up. I actually
 00:32:30 13 looked up the study that I did for a
 00:32:27 14 development I think it was in the borough 12
 00:32:24 15 years ago. That state and federal number per
 00:32:21 16 student was something like \$2800 and now it is
 00:32:17 17 \$3600 per student. So that's gone up.
 00:32:15 18 DR. SCANLON: Okay. And, but you
 00:32:13 19 didn't take a look at the breakout of where the
 00:32:10 20 money comes from, the pension money
 00:32:09 21 reimbursement, things like that?
 00:32:07 22 THE WITNESS: No. But I would
 00:32:06 23 say the vast majority is ESB moneys.
 00 24 DR. SCANLON: Okay. Of the

00:31:54 1 proposed budget, you wouldn't know this, but
 00:31:51 2 for next year our projected revenues from the
 00:31:49 3 state would be 50,000 less than current year,
 00:31:46 4 so, again, that is the trend.
 00:31:40 5 THE WITNESS: Well, that --
 00:31:38 6 whether it is less overall or less per student
 00:31:34 7 I cannot say. My recollection from your
 00:31:31 8 enrollment projections are that you are
 00:31:28 9 projecting enrollment to continue declining to
 00:31:25 10 the future.
 00:31:24 11 DR. SCANLON: We did a study. I
 00:31:22 12 can talk about that study.
 00:31:21 13 THE WITNESS: It may be the same
 00:31:20 14 amount as we received last year. It may be
 00:31:18 15 more. It would be less overall. But on a per
 00:31:16 16 student basis it would be about the same or
 00:31:14 17 slightly more.
 00:31:12 18 DR. SCANLON: And the memo I
 00:31:09 19 guess or the report, I did not see the report,
 00:31:03 20 I did see a response to the Todd Poole numbers,
 00:31:00 21 you asked me to look at 172 students, what
 00:30:57 22 impact did that have, so that's where my
 00:30:55 23 numbers, based on that information that I had
 00:30:55 24 from Mr. Poole and looking at the costs, are

00:30:51 1 you aware that the costs that I gave in terms
 00:30:49 2 of students, special education students are
 00:30:46 3 about 29,000 and regular education students
 00:30:42 4 were about 12,000, those are charter school
 00:30:39 5 enrollment figures, which is the only per pupil
 00:30:37 6 cost that the state recognizes right now.
 00:30:34 7 THE WITNESS: I'm sorry, I can't
 00:30:33 8 really hear your question. Is it possible for
 00:30:31 9 you to use one of those microphones, perhaps?
 00:30:29 10 DR. SCANLON: Sure. Is that
 00:30:19 11 better?
 00:30:18 12 THE WITNESS: Oh, much better.
 00:30:16 13 DR. SCANLON: Okay. The costs
 00:30:12 14 that I used in response to Mr. Poole's
 00:30:10 15 information on 172 students, the per pupil
 00:30:06 16 costs that are two in here, one was regular
 00:30:04 17 education students, one was special education
 00:30:01 18 students, did you know that that is the only
 00:29:57 19 per pupil cost the state recognizes in terms of
 00:29:55 20 an actual cost per pupil?
 00:29:52 21 THE WITNESS: No.
 00:29:48 22 DR. SCANLON: Okay. So that is
 00:29:46 23 what we pay charter school students when we
 00:29:43 24 send a charter school student away. And it

00:29:41 1 takes out some other costs which I then added
 00:29:38 2 back in, in terms of the analysis, looking at
 00:29:34 3 transportation costs, looking at the impact
 00:29:31 4 that this would have with the number of
 00:29:28 5 students going to Starkweather Elementary
 00:29:24 6 School in particular, which is a building that
 00:29:21 7 in 2014 we actually did a redistricting plan,
 00:29:16 8 pulled 75 kids out of there, but it is going to
 00:29:13 9 fill back up. There is no capacity there and
 00:29:11 10 the class size are at a higher level.
 00:29:09 11 So you weren't aware that I added
 00:29:04 12 some of that in I guess? Is that true or not?
 00:29:02 13 THE WITNESS: I simply took the
 00:29:00 14 number, series of numbers that you gave in the
 00:28:57 15 middle of the first page of your January 25th
 00:28:55 16 memo, totaling \$2.4 million in expenditures,
 00:28:50 17 divided it by the number of students that Todd
 00:28:44 18 projects, 172, which is very similar but not
 00:28:41 19 exactly the same as the number that I project,
 00:28:39 20 and come up with the \$13,955.40 per student.
 00:28:33 21 DR. SCANLON: Okay. And were you
 00:28:31 22 aware on the back page of that there were some
 00:28:27 23 classroom construction costs and staffing costs
 00:28:23 24 that were part of that?

00:28:22 1 THE WITNESS: Well, I would
 00:28:16 2 hesitate to say that they were part of it. I
 00:28:13 3 don't know that there is a connection between
 :12 4 these numbers and the ones on the front page.
 00:28:09 5 DR. SCANLON: They are all
 00:28:08 6 connected. They are all part of the same memo
 00:28:06 7 to Mr. Poole in response.
 00:28:03 8 When you look at, again, the
 00:28:01 9 expenses, we estimate about \$645,000 additional
 00:27:54 10 expenses per year, based on that, until we end
 00:27:50 11 up paying for some of the loan money that we
 00:27:47 12 are going to have to pay for bonds for some of
 00:27:44 13 the extra classroom or leasing a modular
 00:27:42 14 classrooms until we do so.
 00:27:40 15 THE WITNESS: Well, that would
 16 be --
 00:27:39 17 DR. SCANLON: That is why that is
 00:27:38 18 all part of that and not just the one per pupil
 00:27:34 19 charter school cost.
 00:27:33 20 THE WITNESS: That would be the
 00:27:33 21 net difference between the projected
 00:27:30 22 expenditures, based on your analysis, and the
 00:27:26 23 projected revenue, again, based on your
 :24 24 analysis.

00:27:23 1 DR. SCANLON: Correct. And
 00:27:19 2 again, there is a shortfall in revenue based on
 00:27:15 3 expenses. Now, I understand that you use the
 00:27:09 4 average income, you made a comment about using
 00:27:06 5 the average household median income to what I
 00:27:02 6 used in working with our business office for
 00:27:00 7 the School District for that, to calculate the
 00:26:56 8 earned income piece on that.
 00:26:55 9 THE WITNESS: That is one of the
 00:26:54 10 differences between our analysis, yes.
 00:26:52 11 DR. SCANLON: That's the
 00:26:52 12 difference there. What was the analysis you
 00:26:50 13 used, the actual income for an average
 00:26:46 14 homeowner for these properties?
 00:26:44 15 THE WITNESS: For the
 00:26:42 16 single-family homes that translates to an
 00:26:37 17 annual household income minimum, not average
 00:26:33 18 but minimum, of \$195,644.
 00:26:26 19 DR. SCANLON: 195,644.
 24 20 THE WITNESS: Correct. For the
 00:26:22 21 carriage homes, \$151,723.
 00:26:18 22 DR. SCANLON: Okay.
 00:26:18 23 THE WITNESS: And that's mostly a
 00:26:16 24 function simply of the value of the homes. You

00:26:13 1 can't have an average level of household income
 00:26:10 2 and afford a home that is above average in cost
 00:26:05 3 or value.
 00:26:04 4 DR. SCANLON: Okay.
 00:26:04 5 THE WITNESS: I wish that were
 00:26:03 6 true, but it is not.
 00:25:58 7 DR. SCANLON: Are you aware that
 00:25:58 8 we also provide services to nonpublic school
 00:25:54 9 students?
 00:25:53 10 THE WITNESS: Yes. And those
 00:25:52 11 expenditures would be in your budget so they
 00:25:50 12 are included in the analysis.
 00:25:49 13 DR. SCANLON: All right. No
 00:25:47 14 further questions.
 00:25:47 15 MR. MCKENNA: Thank you, Dr.
 00:25:46 16 Scanlon.
 00:25:42 17 Mr. McFalls, here for the
 00:25:40 18 Westminster Presbyterian Church?
 00:25:37 19 Mr. Feryo, for the Quarry
 00:25:30 20 Swimming Association?
 00:25:30 21 MR. FERYO: No questions.
 00:25:29 22 MR. MCKENNA: Mr. Spackman, for
 00:25:26 23 the Thornbury Farm Trust?
 00:25:23 24 Bradley or Amy Harkins?

00:25:17 1 MS. HARKINS: No questions.
 00:25:15 2 MR. MCKENNA: Mr. Mammucari?
 00:25:13 3 MR. MAMMUCARI: No questions.
 00:25:12 4 MR. MCKENNA: Mr. Gadaletto?
 00:25:07 5 Phillip Jones?
 00:25:05 6 MR. JONES: Yes, just one
 00:24:54 7 question. Are the numbers, are the expenses
 00:24:48 8 that the School District needs to incur, do
 00:24:43 9 they include the underfunded pension for all of
 00:24:38 10 the teachers that the School District has not
 00:24:36 11 been contributing to for quite sometime, but
 00:24:33 12 will need to contribute in the future to?
 00:24:30 13 THE WITNESS: The expenditures do
 00:24:29 14 include pension funding. Whether it is what
 00:24:26 15 the School District needs to fund in order to
 00:24:22 16 catch up to a perceived deficit or not, I
 00:24:19 17 cannot say. But the pension expenditures are
 00:24:16 18 certainly in the budget. Therefore, they are
 00:24:14 19 in this analysis.
 00:24:13 20 MR. JONES: I think if they are
 00:24:12 21 based on the current School District
 00:24:10 22 expenditures over the past ten years, they are
 00:24:06 23 missing a significant contribution to
 00:24:02 24 appropriately fund a liability that they

00:23:59 1 already have.
 00:23:57 2 MR. ADELMAN: I'll just object to
 00:23:56 3 that. It wasn't a question.
 00:23:55 4 MR. MCKENNA: Understood. Thank
 00:23:54 5 you.
 00:23:53 6 MR. ADELMAN: Thank you.
 00:23:53 7 MR. MCKENNA: Thank you, Mr.
 00:23:52 8 Jones. Anything further?
 00:23:51 9 MR. JONES: Let me try to state
 00:23:50 10 that as a question. Does it include the
 00:23:47 11 unfunded liability the School District
 00:23:45 12 currently has for significant pensions that
 00:23:41 13 they have not been contributing to?
 00:23:39 14 THE WITNESS: I do not know. I
 00:23:37 15 think that's a question better asked of the
 00:23:36 16 School District.
 00:23:34 17 MR. JONES: If they are missing
 00:23:32 18 from this then this report is vastly incorrect;
 00:23:26 19 is that right? If there is a significant
 00:23:27 20 expenditure missing in the School District's
 00:23:23 21 expenditures, annual expenditures, is there not
 00:23:19 22 a significant error in this report?
 00:23:16 23 THE WITNESS: Well, the report is
 00:23:15 24 based on the School District budget. And if

00:23:12 1 there is a problem with the School District's
 00:23:10 2 budget, then, yes, there would be a problem
 00:23:09 3 with my analysis. But I have no other basis
 00:23:05 4 of --
 00:23:05 5 MR. JONES: Thank you.
 00:23:04 6 THE WITNESS: -- of making these
 00:23:03 7 assumptions.
 00:23:03 8 MR. MCKENNA: Thank you, Mr.
 00:23:02 9 Jones.
 00:23:00 10 Mr. Moscharis? Is he here?
 00:22:53 11 MS. MOSCHARIS: No.
 00:22:52 12 MR. MCKENNA: Do you have any
 00:22:52 13 questions, ma'am?
 00:22:51 14 MS. MOSCHARIS: No, not at this
 00:22:50 15 time. Thank you.
 00:22:45 16 MR. MCKENNA: Allison Corcoran,
 00:22:43 17 any questions?
 00:22:37 18 MS. CORCORAN: Yes, quick
 00:22:36 19 question. The Rutgers study that you have
 00:22:34 20 referenced, what year was that study published?
 00:22:30 21 THE WITNESS: This is dated June
 00:22:29 22 of 2006. It is based on the 2000 United States
 00:22:24 23 Census for Pennsylvania. Unfortunately, there
 00:22:22 24 is nothing that is more recent than this.

00:22:19 1 Doing these types of studies, unfortunately,
 00:22:17 2 costs a great deal of money and universities
 00:22:14 3 just don't have that kind of cash.
 00:22:12 4 MS. CORCORAN: Thank you.
 00:22:09 5 MR. MCKENNA: Mr. Skupp?
 00:22:07 6 Diana Leraris?
 00:21:57 7 Ed Boyer?
 00:21:55 8 Amy Murnane?
 00:21:49 9 Kurt Wolter?
 00:21:44 10 Mr. Corgnale?
 00:21:40 11 Robert Daull?
 00:21:37 12 MR. DAULL: Here. No questions.
 00:21:34 13 MR. MCKENNA: Scott Sobers?
 00:21:29 14 Mr. Pavelchek?
 00:21:27 15 MR. PAVELCHEK: No questions.
 00:21:26 16 MR. MCKENNA: Phillip Jaeger?
 00:21:21 17 Mr. Cahill?
 00:21:17 18 David Pryze?
 00:21:14 19 Jennifer or Jeffrey Kramer?
 00:21:08 20 MS. KRAMER: I do have a
 00:21:07 21 question. Sorry, I did not catch what these
 00:21:01 22 numbers refer to. At one point you had
 00:20:59 23 mentioned that expenditures I believe involved
 00:20:57 24 students they were 3600 now and 15 years ago

00:20:52 1 they were about 2500, I think?
 00:20:50 2 THE WITNESS: I believe you are
 00:20:49 3 referring to the state and federal subsidy
 00:20:46 4 pursuant to the West Chester Area School
 00:20:44 5 District. And in the last school year budget
 00:20:40 6 it is \$3,602 per student.
 00:20:35 7 12 years ago or so, maybe more
 00:20:32 8 than that, maybe 13 or 14 years ago, I did a
 00:20:29 9 similar analysis of a proposed development in
 00:20:26 10 West Chester Borough. That number was
 00:20:23 11 approximately \$2800 per student.
 00:20:21 12 So the actual subsidy has gone
 00:20:19 13 up. What Dr. Scanlon was referring to is the
 00:20:16 14 proportion of overall expenditures that the
 00:20:12 15 state is essentially paying for has gone down
 00:20:09 16 during that time. That is entirely accurate.
 00:20:07 17 But the subsidy, nonetheless, that has gone up
 00:20:04 18 a little bit.
 00:20:03 19 MS. KRAMER: Does that take
 00:20:02 20 inflation into account? I believe inflation,
 00:19:59 21 those numbers are equal.
 00:19:56 22 THE WITNESS: Does which number
 00:19:55 23 take inflation into account?
 00:19:53 24 MS. KRAMER: Both. I believe --

00-19-52 1 THE WITNESS: Oh, those two
 00-19-51 2 subsidies? In part, yes. The state, with one
 00-19-44 3 notable year of exception, six years ago or so,
 38 4 increases, either increases its subsidy per
 00-19-33 5 student to schools, or at the very least it
 00-19-31 6 stays the same.

00-19-30 7 Currently, the last two years I
 00-19-26 8 would say that the increase has been, there has
 00-19-24 9 been an increase in per-student expenditures or
 00-19-20 10 subsidies from the state.

00-19-19 11 All I'm doing is assuming that
 00-19-17 12 whatever level of subsidy per student the
 00-19-14 13 district gets now will be the same as what it
 00-19-11 14 gets into the future.

00-19-09 15 My analysis, any fiscal impact
 00-19-06 16 analysis, really, is a snapshot in time based
 00-19-02 17 on today's levels of expenditures and revenue
 00-18-59 18 and taxation and mortgage rates and everything
 00-18-55 19 else that would be involved.

00-18-53 20 Obviously, this snapshot is from
 00-18-51 21 October of last year, so it is not exactly
 00-18-48 22 current. But this was submitted last year.

00-18-46 23 MS. KRAMER: Thank you.

45 24 THE WITNESS: You are welcome.

00-18-43 1 MR. MCKENNA: Megan Bruns?
 00-18-39 2 Mr. Skros?
 00-18-35 3 MR. SKROS: No questions. Thank
 00-18-34 4 you.

00-18-34 5 MR. MCKENNA: Eileen Carey.

00-18-32 6 MS. CAREY: No questions.

00-18-31 7 MR. MCKENNA: Jim McDermott?
 00-18-26 8 Dennis or Patricia McFadden?

00-18-22 9 MR. MCFADDEN: No questions.

00-18-20 10 MR. MCKENNA: Carol Weller?

00-18-19 11 MS. WELLER: No questions.

00-18-16 12 MR. MCKENNA: Linda or Matt

00-18-14 13 Reichert?

00-18-11 14 Does the Board have any questions
 00-18-08 15 at this time?

00-18-06 16 MS. DEWOLF: How many different
 00-17-55 17 models are there that the Rutgers study
 00-17-52 18 recommends that you could perform?

00-17-49 19 THE WITNESS: Do you mean
 18 20 methods?

00-17-47 21 MS. DEWOLF: Yeah, methods.

00-17-45 22 THE WITNESS: It is a very good
 00-17-44 23 question. The Fiscal Impact Handbook, the
 00-17-40 24 original bible, as it were, of fiscal impact

00-17-36 1 analysis came out in the early 1970s. I
 00-17-33 2 believe at that time there were six or eight
 00-17-31 3 different methods. The two that have been
 00-17-26 4 discussed today are the Per Capita Multiplier
 00-17-23 5 Method and the Case Study Method. There were
 00-17-20 6 four or five or six additional methods.

00-17-17 7 MS. DEWOLF: And this method is
 00-17-16 8 based on the census from 2000, did I hear you
 00-17-12 9 say?

00-17-12 10 THE WITNESS: Well, the
 00-17-11 11 demographics are based on that, yes. But the
 00-17-09 12 methodology is specific to Rutgers University
 00-17-05 13 Center For Urban Policy Research.

00-17-03 14 MS. DEWOLF: Correct, I
 00-17-02 15 understand that. You just said that you have a
 00-17-01 16 snapshot of today's levels of, you know, per
 00-16-55 17 October. So what, given the census in 2000 and
 00-16-48 18 the Rutgers study is also from, what, 2006 did
 00-16-45 19 you say?

00-16-44 20 THE WITNESS: Well, that's just
 00-16-43 21 the demographic multipliers from Rutgers, yes.

00-16-39 22 MS. DEWOLF: Correct. Have you
 00-16-38 23 any way to bring it to a more accurate level to
 00-16-31 24 October of 2016? Did you factor in, did you

00-16-26 1 use any methodology to kind of bring it to
 00-16-24 2 current status? Or was it just based on the
 00-16-20 3 census from 2000 and the multipliers from 2006
 00-16-14 4 which Rutgers suggests?

00-16-12 5 THE WITNESS: Well, the
 00-16-11 6 multipliers from 2006 are based on the 2000
 00-16-08 7 census, so those two sets of figures are one
 00-16-06 8 and the same.

00-16-04 9 MS. DEWOLF: I understand that.

00-16-04 10 THE WITNESS: To answer your
 00-16-03 11 question, there is another study. It is
 00-15-59 12 specific to Montgomery County, developed by the
 00-15-57 13 Montgomery County Planning Commission, called
 00-15-54 14 Characteristics of the Population in New and
 00-15-52 15 Existing Housing Units. This is dated January
 00-15-50 16 of 2012. It is available on the Montgomery
 00-15-44 17 County Planning Commission's website. And I
 00-15-41 18 did not use the study because it is specific to
 00-15-38 19 Montgomery County. I would suggest that the
 00-15-34 20 demographics for new housing in the two
 00-15-31 21 counties are going to be comparable.

00-15-26 22 MS. DEWOLF: You just said you
 00-15-25 23 did not use that. I'm interested in if you
 00-15-22 24 utilized any methodology to kind of bring an

00-15-16 1 accurate number to date, or did you just base
 00-15-13 2 it on the 2000 Census and the Rutgers
 00-15-08 3 methodology that was based on the year 2006?
 02 4 THE WITNESS: Well, that's what I
 00-15-01 5 used. Point of bringing this study up from
 00-14-59 6 Montgomery County is that it is newer set of
 00-14-55 7 numbers, but it corroborates, it confirms the
 00-14-52 8 demographics from the Rutgers study based on
 00-14-50 9 the 2000 Census.
 00-14-48 10 MS. DEWOLF: Okay. Have you ever
 00-14-46 11 combined studies? You chose the per capita
 00-14-43 12 study, correct?
 00-14-42 13 THE WITNESS: Per Capita
 00-14-41 14 Multiplier, yes.
 00-14-40 15 MS. DEWOLF: Which is a
 00-14-39 16 projection, correct?
 00-14-38 17 THE WITNESS: Well, they are all
 00-14-37 18 projections, correct.
 00-14-36 19 MS. DEWOLF: Correct. And we
 00-14-34 20 discussed the Case Study earlier, but yet you
 00-14-31 21 didn't use the Interview Method for obtaining
 00-14-27 22 perhaps some more accurate data.
 00-14-24 23 Have you ever done a
 22 24 collaborative of the two in a fiscal impact?

00-14-18 1 In other words, combining a little bit of the
 00-14-16 2 Per Capita Method but also checking it with the
 00-14-12 3 Case Study Method as well?
 00-14-10 4 THE WITNESS: In a few instances
 00-14-07 5 I started with the Per Capita Multiplier
 00-14-04 6 Method, and then after submission to a
 00-14-01 7 municipality was requested to do a Case Study
 00-13-57 8 Method for a variety of reasons.
 00-13-54 9 I suppose in that regard there
 00-13-53 10 were instances where I did both for the same
 00-13-50 11 development. There may also have been changes
 00-13-46 12 to the proposed development between the first
 00-13-42 13 shot at it and the second shot at it. I don't
 00-13-40 14 know if it is apples to apples in every
 00-13-38 15 instance.
 00-13-37 16 My experience has been that the
 00-13-35 17 Case Study Method tends to be more realistic in
 00-13-29 18 terms of municipal and school district
 00-13-23 19 expenditures, and those projections tend to be
 21 20 lower than the Per Capita Multiplier Method for
 00-13-16 21 both school districts and municipalities.
 00-12-35 22 (Discussion off the record.)
 23 MR. MCKENNA: Eleanor, why don't
 00-12-15 24 you read back where we were.

00-12-15 1 (Record read.)
 00-12-13 2 MS. DEWOLF: You had mentioned
 00-12-10 3 with the Per Capita Method that it didn't
 00-12-07 4 include sewer or on-lot or any of that piece.
 00-12-02 5 What else does the Per Capita Method not
 00-11-58 6 include that perhaps might be a capital cost as
 00-11-52 7 well?
 00-11-52 8 THE WITNESS: Well, the reason I
 00-11-50 9 did not include the sewer costs has nothing to
 00-11-46 10 do with the choice of the Per Capita Multiplier
 00-11-43 11 Method.
 00-11-42 12 MS. DEWOLF: Right.
 00-11-42 13 THE WITNESS: Sometimes sewer
 00-11-40 14 costs are included, but in this instance the
 00-11-36 15 sewer fund is essentially a proprietary fund
 00-11-32 16 where the township or sewer authority, some
 00-11-26 17 official body will set the revenue rates,
 00-11-23 18 whether it is sewer rents or connection fees or
 00-11-18 19 perhaps other fees, in order to cover the costs
 00-11-13 20 of collecting and treating the sewage.
 00-11-08 21 If you need more money you are
 00-11-07 22 going to raise those sewer rents. You are not
 00-11-05 23 going to increase taxes. So that's kind of a
 00-11-03 24 separate analysis. But we would assume that

00-10-59 1 whatever the money would be coming in to the
 00-10-56 2 sewer fund would be roughly equivalent to the
 00-10-53 3 money being spent in the sewer fund. And if it
 00-10-51 4 is not, then the township would do what it
 00-10-48 5 would need to do in order to correct that
 00-10-46 6 deficiency.
 00-10-45 7 MS. DEWOLF: And you are familiar
 00-10-43 8 that they are proposing a drip irrigation?
 00-10-38 9 Were you familiar with that --
 00-10-37 10 THE WITNESS: Yes.
 00-10-36 11 MS. DEWOLF: -- being what they
 00-10-35 12 plan to do on their property themselves?
 00-10-33 13 THE WITNESS: I was in attendance
 00-10-31 14 where, one of the prior hearings, when the
 00-10-29 15 sewage disposal was discussed at great length,
 00-10-26 16 yes.
 00-10-25 17 MS. DEWOLF: Okay. And you chose
 00-10-24 18 not to include those figures. Are there any,
 00-10-21 19 are there any other capital costs that you
 00-10-18 20 didn't include that you know would be part of
 00-10-15 21 this picture as we evaluate this cost further?
 00-10-10 22 THE WITNESS: Specifically for
 00-10-06 23 the township, do you mean?
 00-10-04 24 MS. DEWOLF: Sure, yes.

00-10-03 1 THE WITNESS: I do not know of
 00-10-01 2 any other capital costs. The expenditures that
 00-09-55 3 I studied in this report could include
 52 4 financing for some capital expenditures through
 00-09-49 5 debt service. Sometimes the municipalities do
 00-09-44 6 not build or purchase capital equipment or
 00-09-37 7 facilities using cash. It is financed over
 00-09-32 8 time, using usually a bond, and the debt
 00-09-30 9 service for that bond would be an annual,
 00-09-28 10 ongoing operating expenditure, and that would
 00-09-26 11 be included in the analysis.

00-09-23 12 Offhand I cannot tell you if
 00-09-21 13 that's the case for Westtown Township. If you
 00-09-18 14 like, we can examine the budget and look for
 00-09-14 15 debt service. There might be something of that
 00-09-12 16 in there.

00-09-10 17 MS. DEWOLF: How do the numbers
 00-09-08 18 skew for considering the ages of school
 00-09-05 19 children on a development of this sort? Are
 00-09-02 20 they high school kids? Are they pre-schoolers?
 00-08-59 21 What are they normally and how do you project
 00-08-56 22 their difference? Because we are talking
 00-08-53 23 Starkweather, but we also have other ages of
 50 24 students coming in. So did you look at any of

00-08-47 1 that at all?

00-08-46 2 THE WITNESS: Well, the
 00-08-45 3 demographic multipliers that I used are total
 00-08-41 4 number of school-age children per unit for each
 00-08-38 5 of the dwelling types.

00-08-37 6 But if you look at the Rutgers
 00-08-36 7 study, they do differentiate by not exactly
 00-08-32 8 every grade level but school level, elementary
 00-08-30 9 school and middle school, high school, so
 00-08-28 10 forth.

00-08-27 11 However, I would caution against
 00-08-25 12 getting that specific because, after all,
 00-08-22 13 school-aged children do not stay the same ages
 00-08-19 14 year after year. They flow through the system
 00-08-16 15 and are eventually graduated and are replaced
 00-08-13 16 by other students from other units or from that
 00-08-10 17 same unit, depending upon the turnover.

00-08-07 18 MS. DEWOLF: But that was not in
 00-08-06 19 your study, correct?

20 THE WITNESS: No, it averaged out
 00-08-03 21 in a blended average --

00-08-02 22 MS. DEWOLF: Right.

00-08-01 23 THE WITNESS: -- the cost
 00-08-01 24 overall, yes.

00-07-59 1 MS. DEWOLF: Right. I think
 00-07-49 2 that's all. Thank you.

00-07-47 3 MR. HAWS: I just have a couple
 00-07-42 4 questions as well. So help me understand the
 00-07-38 5 earned income tax calculation that you
 00-07-34 6 generated. So from the beginning of this
 00-07-29 7 proceedings we have been told nothing of what
 00-07-27 8 the valuation of the properties will be of the
 00-07-23 9 asking prices. So how is it possible that you
 00-07-19 10 are able to figure out what their earned income
 00-07-15 11 tax would be based on an assumption of
 00-07-11 12 mortgage?

00-07-09 13 THE WITNESS: Well, the
 00-07-07 14 assumptions put into a fiscal impact analysis
 00-07-05 15 for a residential development, at least, must
 00-07-01 16 absolutely include the average price of each
 00-06-57 17 dwelling type. And these figures are from the
 00-06-55 18 applicant. And I believe they are average
 00-06-53 19 prices, not minimum prices. They assume an
 00-06-49 20 average lot premium and an average set of
 00-06-46 21 add-ons and so forth.

00-06-45 22 And the numbers that I was given
 00-06-43 23 are \$810,000 for the single-family homes and
 00-06-36 24 \$600,000 for the carriage homes. And I plugged

00-06-30 1 those numbers into my magical spreadsheet and
 00-06-27 2 that's where it comes from.

00-06-26 3 MR. HAWS: Okay. And then you
 00-06-25 4 had also made a comment to or a response to one
 00-06-20 5 of the questions around that the minimum income
 00-06-15 6 for a single-family home was \$195,000?

00-06-07 7 THE WITNESS: Yes, almost
 00-06-02 8 \$196,000, yes.

00-06-00 9 MR. HAWS: So that doesn't take
 00-05-58 10 into account potentially families moving into
 00-05-53 11 there with a large down payment, so they have a
 00-05-49 12 smaller mortgage? You are just assuming that
 00-05-46 13 they are going to come in and borrow the full
 00-05-44 14 amount and that is where that number came from,
 00-05-40 15 correct?

00-05-40 16 THE WITNESS: Well, it assumes
 00-05-39 17 they are going to finance 90 percent of the
 00-05-36 18 value of the home, the cost of the home, yes.

00-05-34 19 MR. HAWS: Okay.

00-05-33 20 THE WITNESS: It assumes a down
 00-05-32 21 payment.

00-05-31 22 MR. HAWS: Just a 10 percent down
 00-05-30 23 payment then?

00-05-29 24 THE WITNESS: I believe so. Yes.

00-05-26 1 10 percent down payment.
 00-05-22 2 MR. HAWS: So I understood that
 00-05-12 3 you came up with a per resident fee -- sorry,
 00-05-03 4 Carol, can you just back up a little bit? I'm
 00-05-01 5 sorry. Since I was trying to talk to him, it
 00-05-00 6 is kind of hard.
 00-04-57 7 So you came up with a per
 00-04-53 8 property fee, and you said that when you were
 00-04-47 9 looking at expenditures and revenue from a
 00-04-45 10 township and that there is a positive for this
 00-04-41 11 development, but that did not factor in
 00-04-37 12 additional services being required. So I
 00-04-34 13 understand where you were coming from when you
 00-04-33 14 were saying that you averaged everything out.
 00-04-30 15 And maybe I'm incorrect. I'm a scientist by
 00-04-26 16 training, so these numbers are new to me. But
 00-04-20 17 you said you took the total revenue, total
 00-04-18 18 expenditures, and you came out with a net
 00-04-15 19 positive, then you divided that by a certain
 00-04-10 20 number and you got a per capital rate, per home
 00-04-09 21 or something?
 00-04-08 22 THE WITNESS: Well, there is a
 00-04-08 23 per unit expenditure figure for each of the two
 -05 24 dwelling types, and a per unit revenue figure

00-04-02 1 for each of the two dwelling types, and if you
 00-04-00 2 subtract the expenditures from the revenue you
 00-03-58 3 get the net impact for each of the dwelling
 00-03-55 4 types.
 00-03-55 5 But I would respectfully disagree
 00-03-52 6 it does take into account the expansion of
 00-03-49 7 township services. That's the total township
 00-03-46 8 expenditures of \$437,000 or so per year.
 00-03-38 9 That's a significant expansion of township
 00-03-36 10 expenditures.
 00-03-35 11 MR. HAWS: So what page was that
 00-03-34 12 on that you referenced that?
 00-03-32 13 THE WITNESS: That would be on
 00-03-30 14 the bottom of page 7. It would also appear on
 00-03-25 15 the township's spreadsheet, which is the second
 00-03-23 16 to the final page.
 00-03-14 17 MR. HAWS: So what was that
 00-03-13 18 number again? You said 436,000?
 00-03-11 19 THE WITNESS: \$436,834 of annual
 06 20 expenditures for the Plan A for the proposed
 00-03-03 21 development.
 00-03-02 22 MR. HAWS: But that doesn't take
 00-02-56 23 into account additional police force, their
 00-02-53 24 pension, additional public works, additional

00-02-49 1 township staff, additional road staff,
 00-02-46 2 infrastructure that is needed? So I understand
 00-02-43 3 that you calculated the costs that we are
 00-02-39 4 getting, but you didn't net out those
 00-02-37 5 additional expenditures?
 00-02-36 6 THE WITNESS: No, it does take
 00-02-34 7 into account those additional expenditures. If
 00-02-33 8 I had assumed no additional expenditures then
 00-02-30 9 the annual expenditure number would be zero,
 00-02-28 10 which would be a laughable, ridiculous notion.
 00-02-23 11 That's obviously not accurate.
 00-02-21 12 But this development will
 00-02-19 13 generate significant annual expenditures on the
 00-02-16 14 part of the township. However, what I'm saying
 00-02-13 15 is that the revenue to be generated by this
 00-02-11 16 development exceeds the expenditures on an
 00-02-07 17 annual basis and, therefore, there is projected
 00-02-05 18 to be an annual net surplus every year.
 00-02-02 19 MR. HAWS: So, again, I
 00-01-59 20 understand that, but where did you come up with
 00-01-57 21 the additional expenditures for this
 00-01-54 22 development?
 00-01-53 23 THE WITNESS: Well, mostly from
 00-01-52 24 the township budget. Again, I took the budget,

00-01-48 1 the operating funds, the three operating
 00-01-46 2 funds--
 00-01-45 3 MR. HAWS: But that is as it is
 00-01-44 4 today?
 00-01-43 5 THE WITNESS: Right.
 00-01-42 6 MR. HAWS: That's with no
 00-01-41 7 additional growth?
 00-01-40 8 THE WITNESS: No. The assumption
 00-01-38 9 is that whatever you spend per person today on
 00-01-36 10 your existing residents, you will also spend
 00-01-33 11 that same amount on the future residents of the
 00-01-30 12 proposed development. And that number is \$455,
 00-01-23 13 it is \$455.16 cents per person, per year. And
 00-01-19 14 that number is then applied to the number of
 00-01-16 15 residents in the proposed development at
 00-01-14 16 build-out and full occupancy to yield the
 00-01-10 17 projection of \$437,000 or so of annual
 00-01-05 18 expenditures for the township.
 00-01-04 19 MR. HAWS: Would you say that
 00-01-03 20 that is a huge assumption, though, that what we
 00-01-00 21 spend today per resident would be the same as
 00-00-57 22 future? There has to be some tipping point
 00-00-55 23 where you get to a critical mass that that cost
 00-00-52 24 that you are able to run a township either

00:00:48 1 becomes lower or higher at some point?
 00:00:46 2 THE WITNESS: And my experience
 00:00:45 3 has been that if there is some, any excess
 39 4 capacity in facilities, personnel, equipment,
 00:00:34 5 manpower, vehicles and such, then it does not
 00:00:30 6 cost this amount per person into the future.
 00:00:25 7 It is actually lower than that.
 00:00:24 8 So, again, my expenditure
 00:00:22 9 projections tend to be conservative, which
 00:00:19 10 means they are higher than what I would
 00:00:17 11 actually anticipate for a given development.
 00:00:13 12 MR. HAWS: And that's fine. But
 00:00:12 13 my question is not talking about the numbers in
 00:00:09 14 general. But what you are saying is that what
 00:00:07 15 we spend today will be what we spend tomorrow,
 00:00:03 16 and I'm asking you from just a general planning
 00:00:00 17 standpoint, there has to be a critical point
 00:00:01 18 where what you spend today versus tomorrow,
 00:00:05 19 there is a tipping point on the number of
 00:00:07 20 people that there are, so whether your township
 00:00:10 21 gets half, you are not going to be spending
 00:00:13 22 that much because you have less services. If
 00:00:15 23 your township doubles, you are going to be
 17 24 spending more. There has to be a critical

00:00:19 1 point where that number changes.
 00:00:22 2 So all I'm asking is that this is
 00:00:25 3 a large assumption that you made with your
 00:00:27 4 analysis, is the per capital spend is equal?
 00:00:32 5 THE WITNESS: Yes, it is an
 00:00:33 6 average costing technique. It, again, assumes
 00:00:37 7 what you spend now is the same as what you will
 00:00:41 8 spend in the future per person.
 00:00:43 9 MR. HAWS: Did your fiscal
 00:00:44 10 analysis look at any of the ongoing current
 00:00:47 11 development and factor in those needs as well?
 00:00:50 12 THE WITNESS: In terms of
 00:00:54 13 expenditures?
 00:00:55 14 MR. HAWS: You said you used an
 00:00:56 15 average model, and, as we have new construction
 00:01:02 16 and new development, the increases are going
 00:01:07 17 up, and this is just an additive to that.
 00:01:10 18 THE WITNESS: Well, the
 00:01:10 19 expenditures would be going up, certainly. But
 00:01:18 20 the revenue would be going up as well. And I
 00:01:20 21 don't know about these other developments. If
 00:01:22 22 I have not studied them, I can't provide an
 00:01:22 23 opinion to any specific development.
 00:01:25 24 But in general, as generalities

00:01:29 1 go, new development tends to be higher end than
 00:01:34 2 existing nearby development. I think most
 00:01:37 3 people would agree with that. Most new homes
 00:01:39 4 are going to be sold for more than existing
 00:01:42 5 homes that are nearby.
 00:01:45 6 And, therefore, everything else
 00:01:48 7 being equal, namely the dwelling type, dwelling
 00:01:51 8 size and so forth, the revenue from new
 00:01:53 9 development tends to be higher than the revenue
 00:01:55 10 from existing development, but the expenditures
 00:01:58 11 are comparable. So as a general rule, new
 00:02:02 12 development tends to pay for itself.
 00:02:07 13 MR. HAWS: Okay. So, but, I
 00:02:09 14 mean, you will say that it is an assumption
 00:02:12 15 that the cost is equal as it is today to this
 00:02:16 16 development? You know, excluding, you know,
 00:02:20 17 factors of maybe they need to build additional
 00:02:24 18 buildings or other things that could increase
 00:02:25 19 the cost of this development?
 00:02:28 20 THE WITNESS: Well, when you say
 00:02:29 21 "this development," I would agree with you up
 00:02:31 22 to the point where you say "this development."
 00:02:34 23 Oh, does this development refer
 00:02:36 24 to Crebilly Farms?

00:02:37 1 MR. HAWS: Yes.
 00:02:38 2 THE WITNESS: Oh, I'm sorry. I'm
 00:02:40 3 sorry. I'm sorry. I'm assuming that the
 00:02:42 4 expenditures for Crebilly Farms will be the
 00:02:43 5 same, exactly the same on a per person, per
 00:02:47 6 capita basis, as the entire township right now,
 00:02:51 7 or actually 2016 because that's when the study
 00:02:53 8 was done, and that is what an average costing
 00:02:56 9 technique is.
 00:02:57 10 MR. HAWS: But it doesn't take
 00:02:59 11 into account looking at our public works
 00:03:02 12 capacity, our police department capacity --
 00:03:04 13 THE WITNESS: Right.
 00:03:05 14 MR. HAWS: -- our fire, our, you
 00:03:06 15 know, any of that to say that do we have the
 00:03:08 16 capacity for additional officers, staff, the
 00:03:13 17 like, that would then be able to fit within our
 00:03:17 18 current footprint?
 00:03:19 19 THE WITNESS: That's correct.
 00:03:20 20 But that's what Mr. Poole did. His study is a
 00:03:22 21 Case Study Analysis, which is not an average
 00:03:25 22 costing technique. That's known as a marginal
 00:03:28 23 costing technique and it is more focused, it is
 00:03:32 24 more specific to the excess capacity or lack

00:03:41 1 thereof of specific functions of the
 00:03:44 2 municipality. And I believe that his municipal
 00:03:50 3 service costs are comparable to mine in the
 54 4 projections.
 00:03:57 5 Well, his are slightly higher.
 00:03:59 6 His are 520,000, mine are 436,000.
 00:04:05 7 MR. HAWS: Okay. Thank you.
 00:04:09 8 Just one other question. I know Carol touched
 00:04:12 9 on this a little bit. So the Rutgers 2006
 00:04:16 10 study is based off of the 2000 Census. But
 00:04:19 11 that factor of the -- sorry. Still trying to
 00:04:26 12 figure out the terminology. The demographics
 00:04:32 13 multiplier for dwelling types is based off of
 00:04:36 14 data that was collected from 1990 to 2000; is
 00:04:39 15 that correct?
 00:04:39 16 THE WITNESS: Well, it was
 00:04:40 17 collected in the 2000 Census but based on units
 00:04:43 18 that were built in the 1990s only.
 00:04:46 19 MR. HAWS: So is it fair to say
 00:04:47 20 that what was built in the 1990s to 2000 are
 00:04:55 21 significantly different than what is today?
 00:04:59 22 THE WITNESS: My opinion would be
 00:05:02 23 that the demographics of units built in the
 06 24 1990s would be comparable to the demographics

00:05:08 1 of units that are going to be built in Westtown
 00:05:11 2 in the next five or ten years. In general,
 00:05:14 3 average household sizes have been declining in
 00:05:16 4 this country for more than a hundred years.
 00:05:19 5 There may be some modifications of that for
 00:05:22 6 short periods of time. But, overall,
 00:05:24 7 households have been declining in size. So at
 00:05:28 8 the very least, I don't think the demographics
 00:05:31 9 will be significantly higher in Westtown
 00:05:34 10 Township compared to the statewide averages.
 00:05:38 11 MR. HAWS: Okay.
 00:05:38 12 THE WITNESS: Again, demographics
 00:05:40 13 change every year. They change every day, for
 00:05:42 14 that matter. New family moves in, an old
 00:05:44 15 family moves out. The demographics are
 00:05:46 16 different.
 00:05:48 17 MR. HAWS: And then just one
 00:05:49 18 final question. On page 11 of your report, the
 00:05:53 19 third paragraph down where you talk about the
 36 20 annual revenue is projected to exceed an annual
 00:06:01 21 expenditure by 143.4 percent for carriage
 00:06:06 22 homes, can you just walk me through that
 00:06:08 23 quickly.
 00:06:09 24 THE WITNESS: And that would be

00:06:10 1 where again?
 00:06:11 2 MR. HAWS: It is the third
 00:06:11 3 paragraph below the bullets on page 11.
 00:06:26 4 THE WITNESS: Where?
 00:06:30 5 MR. HAWS: The first sentence.
 00:06:30 6 THE WITNESS: This one?
 00:06:31 7 MR. ADELMAN: Yes.
 00:06:32 8 THE WITNESS: The percentages --
 00:06:33 9 I'm sorry, I thought you mentioned dollar
 00:06:35 10 figures. For each of the two dwelling types,
 00:06:41 11 this paragraph notes the differences or the
 00:06:44 12 extent to which expenditures exceed revenue,
 00:06:48 13 resulting in a deficit, or revenue exceeds
 00:06:53 14 expenditures, resulting in a surplus, in an
 00:06:55 15 annual going basis for each dwelling types.
 00:06:58 16 And for the carriage homes, the
 00:07:00 17 carriage homes are projected to house far fewer
 00:07:03 18 school-age children per unit than the
 00:07:04 19 single-family homes, based on the demographic
 00:07:07 20 multipliers from the census, and, therefore,
 00:07:09 21 the expenditures for the school district will
 00:07:12 22 be significantly lower for the carriage homes
 00:07:15 23 compared to the single homes.
 00:07:16 24 However, the revenue will not

00:07:19 1 have as significant a difference. The revenue
 00:07:22 2 will be quite high for the carriage homes.
 00:07:24 3 These are still relatively high-value homes,
 00:07:28 4 even though they might not be as high as the
 00:07:30 5 single-family detached dwellings.
 00:07:32 6 So if you take the revenue and
 00:07:33 7 subtract the expenditures, there will be a
 00:07:35 8 significant annual surplus to the School
 00:07:38 9 District from the carriage homes.
 00:07:40 10 MR. HAWS: The only reason why I
 00:07:43 11 was asking was because it just says annual
 00:07:45 12 revenue, and everywhere else it talked about
 00:07:47 13 the School District revenues, so I didn't know
 00:07:50 14 what revenues this was referring to.
 00:07:52 15 THE WITNESS: Everything on page
 00:07:53 16 11 is the School District.
 00:07:54 17 MR. HAWS: I understand that. It
 00:07:56 18 is just every other time you reference School
 00:08:00 19 District, so that's why I just wanted
 00:08:01 20 clarification on the record that this was
 00:08:03 21 referring to the School District.
 00:08:04 22 THE WITNESS: It is.
 00:08:05 23 MR. HAWS: Okay. Thank you very
 00:08:06 24 much.

00:08:06 1 THE WITNESS: You are welcome.
 00:08:10 2 MS. DEWOLF: Another question
 00:08:12 3 here. Did you see the 4Ward Planning analysis
 21 4 of the study?
 00:08:25 5 THE WITNESS: I saw one of them.
 00:08:27 6 This is dated February 3rd, 2017.
 00:08:32 7 MS. DEWOLF: Can you refer to
 00:08:33 8 page 8. And he speaks as a consequence of
 00:08:42 9 methodology which he believes is incorrect that
 00:08:45 10 you utilized. And he says: "As a consequence,
 00:08:48 11 the derived non-residential ratio is higher
 00:08:51 12 than it otherwise would be (and, conversely,
 00:08:53 13 the residential ratio would be understated)
 00:08:57 14 resulting in an understatement of the per
 00:09:00 15 capita residential costs shown."
 00:09:02 16 So can you explain that?
 00:09:07 17 THE WITNESS: Yes.
 00:09:09 18 MS. DEWOLF: Well, he seems to
 00:09:10 19 think your numbers are --
 00:09:13 20 THE WITNESS: Mr. Poole used a
 00:09:14 21 slightly different methodology based on what I
 00:09:21 22 would -- put it this way: The methodology that
 00:09:24 23 I used is based on the original, standard,
 27 24 straight ahead sources, what I like to call old

00:09:30 1 school.
 00:09:31 2 His method is based on the, oh, I
 00:09:38 3 forget the name of it, it is a newer version of
 00:09:43 4 the methodology that I don't use.
 00:09:47 5 The methodologies are very
 00:09:49 6 similar, but they are not exactly the same.
 00:09:55 7 His methodology is --
 00:09:58 8 MS. DEWOLF: It says: "Babbitt's
 00:09:59 9 method only employs the proportion of
 00:10:01 10 non-residential property value (196,406,458 in
 00:10:08 11 2016 assessed non-residential value divided by
 00:10:12 12 \$902,803,813 in 2016 total assessed property
 00:10:18 13 value, resulting in non-residential assessed
 00:10:21 14 value share of 21.8 percent)."
 00:10:25 15 And then he goes on to say:
 00:10:26 16 "While Babbitt's report does identify the total
 00:10:31 17 number of land parcels (3,690) and the number
 00:10:34 18 of parcels which are categorized as
 00:10:36 19 non-residential (211), no ratio is derived for
 30 20 either the number of residential or
 00:10:45 21 non-residential parcels," like I said before,
 00:10:47 22 earlier, "as is required for the above," what
 00:10:51 23 they call the "apportioning method."
 00:10:53 24 So he is stating your

00:10:57 1 apportioning method is incorrect.
 00:11:01 2 THE WITNESS: If you read on, on
 00:11:04 3 page 9 he also notes that he is not familiar
 00:11:06 4 with the refinement coefficient which is part
 00:11:08 5 of the method that I used, which is a little
 00:11:10 6 bit more involved than the method that he used.
 00:11:14 7 The refinement coefficient does take into
 00:11:16 8 account that ratio. Again, it is slightly
 00:11:18 9 different, but it almost -- it gets you to
 00:11:21 10 almost the same place.
 00:11:23 11 MS. DEWOLF: Thank you.
 00:11:28 12 MR. MCKENNA: Mr. Adelman, any
 00:11:30 13 redirect?
 00:11:32 14 THE WITNESS: I'm sorry, to
 00:11:33 15 answer the previous question, he uses something
 00:11:35 16 called the Preview Fiscal Impact Model, which
 00:11:39 17 came out in the late 1990s, and it is, I would
 00:11:44 18 refer to it almost as a shortcut method. It is
 00:11:46 19 not the full kind of standard, old-school
 00:11:49 20 method of going through the refinement
 00:11:51 21 coefficients. It is no less or more valid. It
 00:11:54 22 is just slightly different.
 00:11:56 23 MR. MCKENNA: Mr. Adelman?
 00:11:57 24 MR. ADELMAN: Yes, I just have a

00:11:59 1 brief question following up on Mr. Poole's
 00:12:01 2 report.
 00:12:01 3 REDIRECT EXAMINATION
 00:12:02 4 BY MR. ADELMAN:
 00:12:02 5 Q. Mr. Babbitt, does Mr. Poole's report,
 00:12:04 6 Exhibit B-17, shows a surplus or a net positive
 00:12:10 7 revenue?
 00:12:13 8 A. The Poole report shows net surpluses
 00:12:16 9 for both the township and the School District.
 00:12:18 10 MR. ADELMAN: Thank you. I have
 00:12:19 11 no further questions.
 00:12:20 12 MR. MCKENNA: Ms. Camp, any
 00:12:21 13 questions for the Planning Commission?
 00:12:23 14 MS. CAMP: No.
 00:12:24 15 MR. MCKENNA: Mr. Thompson,
 00:12:24 16 anything further?
 00:12:25 17 MR. THOMPSON: No.
 00:12:26 18 MR. MCKENNA: Anything further
 00:12:27 19 from the public?
 00:12:29 20 Anything further from the Board?
 00:12:30 21 I'm sorry. Yes, Dr. Scanlon.
 00:12:32 22 DR. SCANLON: I'll move up here.
 00:12:40 23 MR. MCKENNA: Thank you.
 00:12:41 24 DR. SCANLON: Yeah, just one

00:12:44 1 question about all the studies that have been
00:12:46 2 done. Just something that came up in listening
00:12:48 3 to this testimony. And as a school district we
31 4 have been through many of our own studies,
00:12:53 5 making assumptions, and I get everybody has
00:12:55 6 their own assumptions.

00:12:56 7 Has there ever been, Mr. Babbitt,
00:12:58 8 maybe you have done this, have you ever gone
00:13:00 9 back to a school district or a municipality
00:13:03 10 after a full build-out to go back and verify
00:13:06 11 what the revenues and expenses were?

00:13:08 12 THE WITNESS: I have done that
00:13:10 13 for a school district because those numbers are
00:13:13 14 a little bit easier to quantify. The census
00:13:18 15 will provide us with the number of school-aged
00:13:22 16 children from a certain level of geography,
00:13:26 17 such as a census tracking smaller than that, a
00:13:28 18 census block or block group, so I can determine
00:13:32 19 that the neighborhood over there, hypothetical
00:13:35 20 neighborhood that might have been built right
00:13:36 21 before the annual census represents its own
00:13:42 22 block group, and the say nice round numbers,
00:13:46 23 100 units in that development generated X
49 24 number of school-aged children.

00:13:52 1 I can then determine the number
00:13:54 2 of public school students based on that
00:13:59 3 municipality's percentage of school-age
00:14:03 4 students attending public schools, and then
00:14:05 5 ultimately the school district expenditures
00:14:07 6 from the school district's budget.

00:14:09 7 It is not possible -- I shouldn't
00:14:12 8 say that. It is exceedingly difficult to
00:14:15 9 determine the municipal expenditures from a
00:14:18 10 given development because then you have to
00:14:19 11 start saying that a certain plow spent 13 and a
00:14:26 12 half minutes plowing that neighborhood as
00:14:27 13 opposed to other neighborhoods. Just, you get
00:14:29 14 to a level of finite detail that is, makes it
00:14:33 15 unworkable.

00:14:34 16 I have done that for the school
00:14:35 17 district but not for any municipality, and my
00:14:38 18 experience has been a couple of things. The
00:14:41 19 expenditures tend to be pretty accurate. The
3 20 revenue tends to be pretty conservative in my
00:14:46 21 reports, which means that the actual revenue
00:14:49 22 coming out of a given development tends to be
00:14:51 23 higher than what I project.

00:14:54 24 There are a couple of reasons for

00:14:55 1 that. One, the biggest reason is because of
00:14:57 2 earned income. Again, I'm assuming a minimum
00:15:00 3 level of household income to afford the prices
00:15:04 4 of the units in that development. And when a
00:15:06 5 development is built, typically we know what
00:15:08 6 the sale prices are, and the developer proudly
00:15:11 7 announces those.

00:15:12 8 Typically what happens is that
00:15:15 9 the households do not spend 28 percent of their
00:15:19 10 household income on housing costs. They spend
00:15:22 11 significantly lower than that. Obviously,
00:15:24 12 there are exceptions. And in suburban areas
00:15:28 13 where there is some affluence that tends to be
00:15:31 14 the case. That might not be the case in
00:15:34 15 certain neighborhoods of Philadelphia or
00:15:36 16 Chester or Camden or what have you.

00:15:38 17 But in virtually everywhere in
00:15:40 18 the West Chester area I believe it would be the
00:15:42 19 case, which means that whatever number I would
00:15:47 20 project for earned income would be a
00:15:50 21 conservatively low figure.

00:15:53 22 DR. SCANLON: Do you recall
00:15:54 23 development in the district, in Chester County,
00:15:56 24 or Bucks or Montgomery or Delaware, any of the

00:15:59 1 four-county areas where you did that?

00:16:01 2 THE WITNESS: I did a couple of
00:16:02 3 them in Lower Providence Township. The
00:16:06 4 neighborhood would be known as Evansberg, the
00:16:09 5 western end of Lower Providence. It is the
00:16:14 6 Methacton School District. There were several
00:16:15 7 developments where I studied these. Part of
00:16:19 8 that is because I worked in Lower Providence
00:16:22 9 Township both when I was at the Montgomery
00:16:25 10 County Planning Commission as well as
00:16:26 11 afterwards, in the early 2000s, I was the
00:16:29 12 interim director of planning development in
00:16:31 13 Lower Providence Township. And so some of the
00:16:34 14 developments that I had reviewed while I was at
00:16:36 15 the county in the mid nineties were built by
00:16:39 16 the time I got to be the township development
00:16:41 17 director into 2003, and so I took a look at
00:16:44 18 three or four developments.

00:16:46 19 One of them that I do remember, I
00:16:48 20 think it is called Arrowhead, and it is near
00:16:51 21 the Arrowhead Elementary School, I think is
00:16:54 22 actually why they call it. I don't remember
00:16:55 23 the number of units, 70, whatever it was. And
00:16:58 24 I got numbers out of the census for that and

00:17:00 1 did projections -- not projections but
 00:17:03 2 estimates for the expenditures and the revenue
 00:17:06 3 for that development. There are two or three
 08 4 others also in that township.
 00:17:09 5 DR. SCANLON: Thank you.
 00:17:11 6 MR. MCKENNA: Anything further
 00:17:12 7 based on Mr. Scanlon's questions?
 00:17:14 8 MR. ADELMAN: Nothing further.
 00:17:15 9 MR. MCKENNA: All right. Mr.
 00:17:15 10 Babbitt, thank you very much.
 00:17:18 11 MR. MCKENNA: Mr. Adelman,
 00:17:20 12 anything further from the applicant this
 00:17:21 13 evening?
 00:17:21 14 MR. ADELMAN: Not this evening,
 00:17:23 15 no.
 00:17:23 16 MR. MCKENNA: Since it is almost
 00:17:24 17 quarter to 8:00, why don't we break a little
 00:17:26 18 early this evening. We will come back real
 00:17:29 19 close to 8:00 o'clock and we will start with
 00:17:30 20 the Planning Commission at that point. Thank
 00:17:32 21 you.
 00:17:35 22 MR. PAVELCHEK: May I? May I ask
 00:17:40 23 a question?
 41 24 MR. MCKENNA: For whom?

00:17:42 1 MR. PAVELCHEK: I would like to
 00:17:43 2 follow up the Commissioner Haws just to
 00:17:49 3 confirm.
 00:17:51 4 MR. MCKENNA: Hang on, Mr.
 00:17:52 5 Pavelchek. Are we back on the record?
 00:17:54 6 Could you identify yourself,
 00:17:56 7 please.
 00:17:57 8 MR. PAVELCHEK: Walter Pavelchek.
 00:18:01 9 What it says is that the increased costs to the
 00:18:05 10 township are, per person in a new development
 00:18:10 11 are equal to the present costs per person in
 00:18:14 12 the township now. It will be somewhere close
 00:18:17 13 to, what, 1,000 new people in the township?
 00:18:23 14 390 some families, going to be a thousand
 00:18:26 15 people? So the --
 00:18:27 16 THE WITNESS: I have to get my
 00:18:29 17 glasses out.
 00:18:30 18 MR. MCKENNA: Hang on, Mr.
 00:18:31 19 Pavelchek, let him answer the question.
 20 THE WITNESS: Yes, the projection
 00:18:34 21 is for 960 new residents.
 00:18:36 22 MR. PAVELCHEK: That's going to
 00:18:38 23 be close to 10 percent increase in the
 00:18:41 24 population in the township, I believe. What

00:18:47 1 the township has to decide, has to look at is
 00:18:51 2 will it be able to increase the services for
 00:18:57 3 each of the service departments, police, road,
 00:19:02 4 sewer and so forth, by 10 percent without
 00:19:05 5 making a very great increase in the capital
 00:19:10 6 expenditures.
 00:19:11 7 MR. ADELMAN: I object. There is
 00:19:12 8 no question.
 00:19:13 9 MR. MCKENNA: Mr. Pavelchek, Mr.
 00:19:16 10 Pavelchek, I appreciate that the issue you
 00:19:18 11 raised is important and that we consider it,
 00:19:19 12 but I need you to ask him a question if you
 00:19:21 13 have one.
 00:19:22 14 MR. PAVELCHEK: I did ask a
 00:19:24 15 question.
 00:19:24 16 MR. MCKENNA: I thank you.
 00:19:25 17 Anything further?
 00:19:26 18 MR. PAVELCHEK: No.
 00:19:27 19 MR. MCKENNA: Okay. Now we will
 00:19:28 20 go off the record and we will take a break.
 00:19:30 21 Thank you.
 00:19:32 22 (Witness excused.)
 00:19:32 23 (Recess taken.)
 00:36:18 24 MR. MCKENNA: We will go back on

00:36:20 1 the record. Ms. Camp, if you wouldn't mind
 00:36:21 2 calling your first witness.
 00:36:23 3 MS. CAMP: Sure. Michael
 00:36:24 4 McDonald.
 00:36:25 5 MR. MCKENNA: We'll have Mr.
 00:36:26 6 McDonald sworn in, please.
 00:36:28 7 THE WITNESS: Full name is
 00:36:29 8 Charles Michael McDonald, fire chief of the
 00:36:31 9 Borough of West Chester.
 10 CHARLES MICHAEL MCDONALD,
 11 the witness herein, having first been
 12 duly sworn on oath, was examined and
 00:36:38 13 testified as follows:
 00:36:38 14 DIRECT EXAMINATION
 00:36:40 15 BY MS. CAMP:
 00:36:40 16 Q. Mr. McDonald, can you please state your
 00:36:43 17 position with the West Chester Fire Company?
 00:36:45 18 A. I am the fire chief of the West Chester
 00:36:47 19 Fire Department, the three stations that staff
 00:36:50 20 the Borough.
 00:36:50 21 Q. And what are those three stations?
 00:36:52 22 A. The first is West Chester Fire Company,
 00:36:54 23 the Goodwill Fire Company, and the Fame Fire
 00:36:57 24 Company.

00:36:57 1 Q. How long have you served in your
 00:36:59 2 position with the West Chester fire company?
 00:37:00 3 A. I have been a volunteer fire fighter
 02 4 since 1981.
 00:37:03 5 Q. And would the West Chester Fire Company
 00:37:06 6 be the company that would respond to calls for
 00:37:08 7 service if the Toll development of the Crebilly
 00:37:11 8 Farm was approved and built?
 00:37:12 9 A. That's correct.
 00:37:13 10 Q. Have you reviewed the plans and
 00:37:15 11 documents submitted for the conditional use
 00:37:18 12 application for the proposed development of the
 00:37:20 13 Crebilly tract by Toll Brothers?
 00:37:21 14 A. I have, myself, my three assistants and
 00:37:24 15 my three captains reviewed the plans.
 00:37:25 16 Q. Did Chris Patriarca, who formerly was
 00:37:30 17 the township planner, did he act as the
 00:37:31 18 representative from the fire company to review
 00:37:33 19 the proposed plans for the Crebilly development
 00:37:36 20 and provide input to the Township Planning
 00:37:38 21 Commission?
 00:37:38 22 A. That's correct.
 00:37:39 23 Q. And you were personally involved in the
 41 24 review of those plans, correct?

00:37:42 1 A. That's correct.
 00:37:43 2 Q. Are you familiar with the e-mail that
 00:37:45 3 was sent from Daniel Matthews, Jr., dated
 00:37:48 4 February 13th, 2017, to Chris Patriarca, which
 00:37:52 5 was marked Board Exhibit 20?
 00:37:55 6 A. Yes, I am.
 00:37:56 7 Q. And who is Daniel Matthews, Jr.?
 00:37:58 8 A. Daniel Matthews, Jr. is my
 00:38:00 9 administrative assistant in the West Chester
 00:38:03 10 Fire Department.
 00:38:03 11 Q. Did you instruct him to write the
 00:38:04 12 e-mail to Mr. Patriarca?
 00:38:06 13 A. Yes, I did.
 00:38:07 14 Q. Let's go over that e-mail. Again, it
 00:38:10 15 is marked Board Exhibit 20. The first issue
 00:38:16 16 that you address in this e-mail deals with
 00:38:19 17 congestion on Route 202 southbound in the area
 00:38:21 18 of Route 926, and you suggest that Toll should
 00:38:26 19 implement or assist with implementation of
 09 20 earlier traffic light preemption. Can you
 00:38:31 21 explain to the Board what it is that the fire
 00:38:33 22 company would be looking for?
 00:38:34 23 A. Currently, right now, the preemption is
 00:38:38 24 on the traffic signal at the intersection of

00:38:41 1 202 and 926. And what happens when there is a
 00:38:45 2 red light there, the traffic gets backed up,
 00:38:49 3 sometimes to Pleasant Grove Road, and we do not
 00:38:52 4 get, our trucks do not get close enough to
 00:38:55 5 activate the preemption.
 00:38:57 6 So what we are asking is if we
 00:38:59 7 could move that trigger mechanism back to like
 00:39:02 8 Skiles Boulevard so it would be as we are
 00:39:05 9 approaching the light will turn green
 00:39:07 10 southbound and clear the traffic for us.
 00:39:09 11 Q. And does PennDOT have to approve that
 00:39:11 12 light preemption?
 00:39:13 13 A. I would assume so, yes.
 00:39:14 14 Q. The next thing you suggest is traffic
 00:39:18 15 light preemption to be installed at the
 00:39:20 16 intersection of 926 and New Street. Can you
 00:39:22 17 explain that recommendation?
 00:39:24 18 A. It would be the same concept. The
 00:39:28 19 other factor for that intersection is that the
 00:39:31 20 first West Chester Fire Company that comes from
 00:39:34 21 East Bradford, which is on Bradford Avenue,
 00:39:37 22 they would use the New Street, that's the way
 00:39:41 23 they would respond to an incident in this
 00:39:43 24 development.

00:39:44 1 Q. Okay. And the last bullet point in the
 00:39:47 2 e-mail is that you suggest that the emergency
 00:39:50 3 access road onto South New Street must be
 00:39:53 4 designed to accommodate the largest apparatus
 00:39:55 5 that the fire company operates. What is the
 00:39:57 6 largest apparatus for the fire company?
 00:40:00 7 A. The largest piece we have is our
 00:40:02 8 aerial, our ladder truck, and the truck that we
 00:40:09 9 have is comparable to any assist company that
 00:40:13 10 would come also. So if we made this access
 00:40:15 11 road to accommodate this piece of apparatus, if
 00:40:20 12 we needed other vehicles to come or whatever,
 00:40:23 13 we would have no problem size-wise.
 00:40:25 14 Q. Your e-mail or the e-mail identifies
 00:40:28 15 what the dimensions are. Can you just go over
 00:40:30 16 that, please?
 00:40:31 17 A. Yes. The overall length is 44 foot 7.
 00:40:35 18 The wheel base is 245 inches. And it has a
 00:40:38 19 12-foot height.
 00:40:40 20 The one thing it doesn't have
 00:40:41 21 here, it is a wide-body truck, so it is 110
 00:40:45 22 inches wide. And when we deploy our outriggers
 00:40:49 23 they are 14 foot.
 00:40:51 24 Q. So how wide would you suggest that the

00:40:53 1 emergency access road be designed to be able to
 00:40:56 2 accommodate safe entrance and egress for that
 00:41:00 3 large vehicle?
 90 4 **A. I would say at the minimum to**
 00:41:02 5 **accommodate the 14-foot outrigger spread, maybe**
 00:41:06 6 **a little more on each side so you are not**
 00:41:09 7 **breaking whatever the road is made with when**
 00:41:12 8 **you put the outriggers down.**
 00:41:14 9 **Q. Does the fire company have a suggestion**
 00:41:15 10 **for the materials that should be used to**
 00:41:17 11 **construct the emergency access road?**
 00:41:20 12 **A. We would suggest it would be made out**
 00:41:23 13 **of materials, our vehicles, we have 60-,**
 00:41:28 14 **70,000-pound trucks, and we would expect**
 00:41:31 15 **asphalt just like a normal highway, normal**
 00:41:34 16 **base. That's what we would like to see.**
 00:41:36 17 **Q. And if Toll Brothers proposed that that**
 00:41:39 18 **emergency access road would be conveyed and**
 00:41:42 19 **owned by the homeowners association, would**
 00:41:45 20 **there have to be, would the fire company**
 00:41:47 21 **recommend that there be appropriate**
 00:41:52 22 **restrictions or provisions in the homeowners'**
 00:41:55 23 **declaration that mandate that HOA continually**
 57 24 **maintain the access road in a police state?**

00:42:02 1 **A. That's correct. We would mandate that**
 00:42:04 2 **they would have to do snow plowing and the**
 00:42:08 3 **other issues too, you know, to make it an**
 00:42:12 4 **emergency access road. Not a public road.**
 00:42:15 5 **Because once we make it a public road you start**
 00:42:19 6 **parking and that kind of stuff and it will**
 00:42:21 7 **create some issues for us.**
 00:42:23 8 **Q. Do you have any other concerns on**
 00:42:26 9 **behalf of the fire company with respect to the**
 00:42:27 10 **proposed development or your review of the**
 00:42:29 11 **plans?**
 00:42:30 12 **A. No.**
 00:42:30 13 MS. CAMP: Thank you. Nothing
 00:42:31 14 further.
 00:42:32 15 MR. MCKENNA: Before I turn to
 00:42:34 16 Mr. Adelman, real quick question, Mr. McDonald,
 00:42:36 17 this is a clarification to Ms. Camp's question.
 00:42:38 18 I understand that you said with the outriggers
 00:42:42 19 we were talking 14 feet wide for the vehicle?
 i4 20 THE WITNESS: That's correct.
 00:42:46 21 MR. MCKENNA: So are you
 00:42:47 22 suggesting then a 16-foot-wide road access
 00:42:50 23 road? An 18-foot? Do you have any idea of the
 00:42:53 24 number?

00:42:53 1 THE WITNESS: I would say a
 00:42:54 2 minimum, a 17- or 18-foot road.
 00:42:57 3 MR. MCKENNA: Okay. Thank you.
 00:43:00 4 Mr. Adelman, any cross?
 00:43:01 5 MR. ADELMAN: I don't actually
 00:43:02 6 have any cross, but I have a statement in
 00:43:04 7 response to the Chief's comments in the e-mail.
 00:43:07 8 The applicant would be willing to work with the
 00:43:10 9 fire department, as well as the township,
 00:43:13 10 subject to PennDOT's approval, to implement the
 00:43:15 11 first two bullet points in terms of the
 00:43:17 12 preemption of the devices.
 00:43:19 13 And with respect to the emergency
 00:43:20 14 access road, the applicant would be willing to
 00:43:22 15 provide an emergency access road utilizing the
 00:43:25 16 existing, roughly the existing driveway out to
 00:43:28 17 New Street to be widened a small amount, not
 00:43:32 18 necessarily to the width of the outriggers on
 00:43:35 19 the basis that the fires will actually be
 00:43:38 20 fought further in, in the development, not
 00:43:41 21 along the access road coming from New Street.
 00:43:46 22 That's all I would like to put into the record.
 00:43:48 23 MR. MCKENNA: Okay.
 00:43:49 24 Clarification, when you say "willing to work

00:43:50 1 with," that doesn't mean that the applicant is
 00:43:54 2 actually committing to the improvements; is
 00:43:56 3 that right?
 00:43:56 4 MR. ADELMAN: The applicant is
 00:43:57 5 willing to commit to the preemption devices,
 00:43:59 6 but it is subject to PennDOT's approval.
 00:44:01 7 MR. MCKENNA: Okay.
 00:44:02 8 MR. ADELMAN: We can't agree to
 00:44:03 9 the specific terms that are in the e-mail
 00:44:04 10 without PennDOT agreeing.
 00:44:05 11 MR. MCKENNA: Understood. I just
 00:44:06 12 want to make that clarification.
 00:44:07 13 MR. ADELMAN: That's correct.
 00:44:08 14 And then with respect to the emergency access
 00:44:11 15 road, the applicant will widen the emergency
 00:44:13 16 access road to permit the fire vehicles to
 00:44:16 17 safely traverse in and out of the site.
 00:44:19 18 However, not to permit the outriggers. I
 00:44:22 19 believe that would be further into the site
 00:44:24 20 where the fire would actually occur.
 00:44:25 21 MR. MCKENNA: What is the
 00:44:26 22 proposed width of the emergency access?
 00:44:30 23 MR. ADELMAN: I don't recall at
 00:44:30 24 this point. We would obviously have to work

00:44:35 **1** with the fire department based on a truck
 00:44:37 **2** turning template to make sure it is sufficient
 00:44:39 **3** to get in and out.
 00:44:39 **4** MR. MCKENNA: Okay. Thank you.
 00:44:41 **5** MR. ADELMAN: You are welcome.
 00:44:44 **6** MR. MCKENNA: Ms. Labrum, any
 00:44:46 **7** questions?
 00:44:46 **8** MS. LABRUM: None, thank you.
 00:44:48 **9** MR. MCKENNA: Mr. Thompson, any
 00:44:49 **10** questions?
 00:44:50 **11** MR. THOMPSON: No questions.
 00:44:51 **12** MR. MCKENNA: Mr. DuFault, any
 00:44:53 **13** questions?
 00:44:54 **14** MR. DUFAULT: I have one
 00:44:57 **15** question. Have you seen a road layout of the
 00:45:01 **16** plan, of the site yet?
 00:45:03 **17** THE WITNESS: We did see the site
 00:45:05 **18** development plans. And we are, we are
 00:45:10 **19** sufficient with what we see.
 00:45:11 **20** MR. DUFAULT: Which plan did you
 00:45:12 **21** see?
 00:45:13 **22** THE WITNESS: I couldn't cite you
 00:45:15 **23** a specific plan, what we have seen. I do not
 00:45:18 **24** have that documentation with me. But I could

00:45:20 **1** provide that for you.
 00:45:21 **2** MS. CAMP: He would have received
 00:45:22 **3** the Plan A that was attached to the conditional
 00:45:25 **4** use application.
 00:45:26 **5** MR. DUFAULT: That was the one
 00:45:26 **6** that was presented to the Planning Commission?
 00:45:28 **7** MS. CAMP: That was what was
 00:45:29 **8** attached to the, yes, that was what was
 00:45:31 **9** presented to the Planning Commission, correct.
 00:45:33 **10** MR. DUFAULT: Thank you.
 00:45:39 **11** MR. MCKENNA: Mr. Bevilacqua, for
 00:45:41 **12** far West Glen HOA?
 00:45:44 **13** MR. BEVILACQUA: No questions.
 00:45:45 **14** MR. MCKENNA: Dr. Scanlon, for
 00:45:46 **15** the School District?
 00:45:47 **16** DR. SCANLON: No questions.
 00:45:48 **17** MR. MCKENNA: Mr. Feryo, for the
 00:45:49 **18** swimming association?
 00:45:51 **19** MR. FERYO: No questions.
 00:45:51 **20** MR. MCKENNA: Mr. and Mrs.
 00:45:53 **21** Harkins?
 00:45:54 **22** MS. HARKINS: No questions.
 00:45:55 **23** MR. MCKENNA: Mr. Mammucari?
 00:45:57 **24** MR. MAMMUCARI: No questions.

00:45:58 **1** MR. MCKENNA: Mr. Jones?
 00:45:59 **2** MR. JONES: No questions.
 00:46:00 **3** MR. MCKENNA: Mr. and Mrs.
 00:46:04 **4** Moscharis?
 00:46:08 **5** Ms. Corcoran?
 00:46:11 **6** MR. CORCORAN: No questions.
 00:46:12 **7** MR. MCKENNA: Mr. Daull?
 00:46:15 **8** MR. DAULL: No questions.
 00:46:16 **9** MR. MCKENNA: Mr. Pavelchek?
 00:46:18 **10** MR. PAVELCHEK: No questions.
 00:46:19 **11** MR. MCKENNA: Mr. or Mrs. Kramer?
 00:46:24 **12** MS. KRAMER: No questions.
 00:46:25 **13** MR. MCKENNA: Mr. Skros?
 00:46:26 **14** MR. SKROS: No questions.
 00:46:28 **15** MR. MCKENNA: Eileen Carey?
 00:46:29 **16** MS. CAREY: No questions.
 00:46:30 **17** MR. MCKENNA: Mr. and Mrs.
 00:46:32 **18** McFadden?
 00:46:33 **19** MR. MCFADDEN: No questions.
 00:46:34 **20** MR. MCKENNA: Carol Weller?
 00:46:35 **21** MS. WELLER: No questions.
 00:46:37 **22** MR. MCKENNA: Ladies and
 00:46:39 **23** gentlemen, that's the list of parties that I
 00:46:43 **24** have that were present. If you are a party and

00:46:45 **1** I left you off, let me know if you came in
 00:46:47 **2** late.
 00:46:48 **3** Hearing none, does the Board have
 00:46:49 **4** any questions for this witness?
 00:46:52 **5** MR. HAWS: Sure, yeah, I have a
 00:46:55 **6** couple questions. So, Chief, I have just a
 00:47:01 **7** couple quick questions. I know as part of the
 00:47:03 **8** application you said you did review the site
 00:47:05 **9** layout and plan. Did you guys do any sort of
 00:47:08 **10** scenario planning on average times that it
 00:47:11 **11** would take you to respond to any portion of the
 00:47:16 **12** neighborhood?
 00:47:17 **13** THE WITNESS: We did do some
 00:47:18 **14** surveys on some, we kind of took the township
 00:47:23 **15** as a whole, because basically the West Chester
 00:47:26 **16** Fire Department serves half your township and
 00:47:28 **17** the Goshen Fire Company serves the other half,
 00:47:30 **18** so we took some different developments, we did
 00:47:33 **19** some different scenarios, and we came to the
 00:47:36 **20** conclusion that it will not impact our
 00:47:38 **21** operations.
 00:47:39 **22** MR. HAWS: Okay. Great. Just
 00:47:41 **23** another question. Looking at the raw site plan
 00:47:45 **24** right now as it is proposed, they are having to

00:47:48 1 get into the neighborhood access off of 202,
00:47:53 2 one access off of Street Road, which is 926,
00:47:58 3 and then there is two access points off of West
34 4 Pleasant Grove Road.

00:48:04 5 From your experience being a fire
00:48:06 6 fighter, do you think that having more than
00:48:09 7 just an emergency access onto New Street would
00:48:13 8 be more beneficial?

00:48:15 9 THE WITNESS: I would, in my
00:48:19 10 experience, we have found that in some of the
00:48:23 11 neighborhoods, such as this neighborhood, you
00:48:29 12 see a lot of parking and some other issues that
00:48:34 13 impact that roadway.

00:48:40 14 We suggest -- we actually do a
00:48:44 15 scenario base thing, if there is a fire in the
00:48:47 16 center of this complex, you figure most of your
00:48:51 17 apparatus or all your apparatus is coming from
00:48:53 18 the West Chester area, so our access points
00:48:57 19 will be on basically the north side. We are
00:48:58 20 not proposing to 926 to come back through.

00:49:02 21 Once we get our hose lines in the
00:49:04 22 street, once we start blocking the roads, one
00:49:07 23 of our biggest factors for having the emergency
10 24 access road is so that when the EMS is there,

00:49:14 1 if they have to get out to get to the hospital
00:49:16 2 or we have to bring additional resources in, we
00:49:18 3 have a designated area we can bring them in.

00:49:21 4 MR. HAWS: Okay. Thank you. No
5 further questions.

00:49:28 6 MS. DEWOLF: So we are served
00:49:30 7 also by Fame, correct?

00:49:32 8 THE WITNESS: You are covered by
00:49:33 9 the West Chester Fire Department, which
00:49:35 10 includes the First West Chester Fire Company,
00:49:37 11 the Goodwill Fire Company and the Fame Fire
00:49:40 12 Company. The Fame Fire Company will handle
00:49:42 13 most, will handle most of the nuisance calls in
00:49:45 14 that area because they are the closest.

00:49:47 15 MS. DEWOLF: Right. Fame
00:49:48 16 actually comes right down Matlack to 202,
00:49:52 17 correct?

00:49:53 18 THE WITNESS: That's correct.

00:49:54 19 MS. DEWOLF: That's the fastest
15 20 way to access here?

00:49:56 21 THE WITNESS: Or we will come
00:49:58 22 down High Street instead and avoid the
00:50:00 23 intersection at 202.

00:50:02 24 MS. DEWOLF: Yes, yes, yes, yes.

00:50:04 1 But basically coming southbound on Route 202.
00:50:08 2 And so the easiest access to this would be 202
00:50:13 3 if we had that larger access available,
00:50:19 4 correct?

00:50:20 5 THE WITNESS: That's correct.
00:50:22 6 MS. DEWOLF: It would be more

00:50:24 7 difficult to make the turn on West Pleasant
00:50:30 8 Grove Road. Have you looked at that width of
00:50:31 9 that road and the trees and how everything that
00:50:38 10 are the barriers, so to speak, in that area?
00:50:41 11 Have you looked at that?

00:50:42 12 THE WITNESS: Yes. That whole
00:50:44 13 road is kind of tough to navigate. But some of
00:50:47 14 our smaller apparatus has a problem navigating
00:50:51 15 that road.

00:50:52 16 MS. DEWOLF: All right. And so
00:50:53 17 coming from Matlack and Fame, which living
00:50:57 18 right up the street, I see them coming all the
00:51:01 19 time, they would probably go to 202, I'm
00:51:06 20 hearing you say. They probably wouldn't like
00:51:09 21 to go through the 926 intersection to go around
00:51:13 22 to this?

00:51:14 23 THE WITNESS: No. With the
00:51:14 24 traffic issues, and we don't want to drive by a

00:51:17 1 scene and come back into the scene, you know.
00:51:21 2 MS. DEWOLF: Right. Okay. That
00:51:22 3 makes sense to me.

00:51:23 4 THE WITNESS: And also, with the
00:51:24 5 Goodwill Fire Company, they are coming from
00:51:27 6 just about the center of town, so they would
00:51:28 7 follow that same route.

00:51:30 8 MS. DEWOLF: Right. Okay. Thank
00:51:31 9 you.

00:51:33 10 THE CHAIRMAN: Does it make a
00:51:38 11 difference if the project is an HOA?

00:51:44 12 THE WITNESS: No, not to us.

00:51:46 13 THE CHAIRMAN: Okay.

00:51:47 14 MR. MCKENNA: Ms. Camp, any
00:51:49 15 redirect?

00:51:50 16 MS. CAMP: Nothing further.

00:51:52 17 MR. MCKENNA: Mr. Adelman,
00:51:53 18 anything further?

00:51:53 19 MR. ADELMAN: Nothing further for
00:51:55 20 the Chief. Thank you.

00:51:56 21 MR. MCKENNA: Anything else from
00:51:57 22 any of the parties?

00:51:58 23 All right. Thank you, Chief.

00:52:00 24 THE WITNESS: Thank you.

00:52:01 1 MS. CAMP: Thank you, Chief.
 00:52:05 2 MR. ADELMAN: Thanks, Chief.
 00:52:06 3 THE WITNESS: Thank you.
 37 4 (Witness excused.)
 00:52:07 5 MR. ADELMAN: Next I call Kevin
 00:52:09 6 Matson. My exhibits are going to be a little
 00:52:14 7 bit out of order, but we will get to all of
 00:52:16 8 them.
 9 KEVIN M. MATSON,
 10 the witness herein, having first been
 11 duly sworn on oath, was examined and
 00:52:30 12 testified as follows:
 00:52:30 13 DIRECT EXAMINATION
 00:52:32 14 BY MS. CAMP:
 00:52:32 15 Q. Please state your name.
 00:52:34 16 A. My name is Kevin Matson.
 00:52:39 17 MR. ADELMAN: You have to hit the
 00:52:40 18 white button.
 00:52:40 19 A. My name is Kevin Matson, M-A-T-S-O-N.
 00:52:44 20 Q. With whom are you employed?
 00:52:45 21 A. McCormick Taylor Engineers.
 00:52:48 22 Q. Does McCormick Taylor serve as the
 00:52:51 23 township's civil engineer?
 52 24 A. Yes, we are the appointed township

00:52:55 1 engineer, that's correct.
 00:52:55 2 Q. I have pre-marked, I'll give you a
 00:53:05 3 copy. Sorry, I should have left them up there.
 00:53:18 4 Planning Commission Exhibit 7, is that a
 00:53:19 5 curriculum vitae for yourself?
 00:53:22 6 A. Yes.
 00:53:22 7 Q. And can you briefly describe your
 00:53:24 8 education and professional background to the
 00:53:26 9 Board?
 00:53:27 10 MR. ADELMAN: Ms. Camp, if I my
 00:53:28 11 interrupt, what are you offering him as?
 00:53:31 12 MS. CAMP: Expert in civil
 00:53:32 13 engineering.
 00:53:33 14 MR. ADELMAN: I would stipulate
 00:53:34 15 to that.
 00:53:34 16 MS. CAMP: Thank you.
 00:53:35 17 MR. ADELMAN: You are welcome.
 00:53:36 18 BY MS. CAMP:
 00:53:36 19 Q. Have you reviewed the conditional use
 17 20 application, the base density plan and all
 00:53:40 21 supporting documentation submitted with the
 00:53:42 22 conditional use application?
 00:53:43 23 A. Yes.
 00:53:43 24 Q. And did you prepare the review letter

00:53:45 1 which was dated December 9th, 2016, which was
 00:53:48 2 marked as Board Exhibit 13?
 00:53:51 3 A. Yes.
 00:53:52 4 Q. Did you receive a copy of the response
 00:53:54 5 letter from ESE Consultants, which was dated
 00:53:57 6 January 31, 2017, and the plans and the
 00:54:01 7 materials that were submitted with such letter,
 00:54:03 8 which was marked applicant's Exhibit A-11?
 00:54:06 9 A. Yes.
 00:54:07 10 Q. And did you write a follow-up letter,
 00:54:09 11 dated March 23rd, 2017, after reviewing the
 00:54:13 12 supplemental materials filed by ESE
 00:54:17 13 Consultants?
 00:54:17 14 A. Yes.
 00:54:17 15 Q. And have I marked that as Planning
 00:54:19 16 Commission Exhibit 8?
 00:54:21 17 A. Yes.
 00:54:22 18 Q. Which is your correspondence of March
 00:54:23 19 23rd, 2017, addressed to Chris Patriarca, the
 00:54:28 20 township planning and zoning administrator?
 00:54:30 21 A. That is correct, yes.
 00:54:31 22 Q. So I'm not going to go through each of
 00:54:33 23 those comments, but, instead, I want to
 00:54:34 24 highlight a few of the points that you raise.

00:54:37 1 So, again, we are referring to Planning
 00:54:38 2 Commission Exhibit 8. In comment No. 5 you
 00:54:43 3 talk about the number of parking spaces that
 00:54:45 4 are required for the multi-family dwellings.
 00:54:47 5 How many spaces does the ordinance require for
 00:54:49 6 townhomes?
 00:54:50 7 A. It requires 2.5 for the carriage homes.
 00:54:53 8 Q. And does the conditional use plan
 00:54:56 9 provide that number of spaces for the carriage
 00:54:58 10 homes?
 00:54:58 11 A. The plan provides for two spaces in the
 00:55:01 12 garage and two spaces in the driveway. So it
 00:55:05 13 purports to provide four spaces total for each
 00:55:08 14 of the carriage homes.
 00:55:10 15 Q. There is a requirement in the ordinance
 00:55:12 16 that the for multi-family dwellings the spaces
 00:55:16 17 must be located at the rear of the dwelling or
 00:55:19 18 grouped into one or more parking areas. Is
 00:55:21 19 that your interpretation?
 00:55:22 20 A. Yes.
 00:55:22 21 Q. And does the plan comply with that
 00:55:25 22 section?
 00:55:25 23 A. Not in my opinion.
 00:55:27 24 Q. Okay. Comment 26 is the next comment I

00:55:33 1 would like to highlight. You indicate and you
 00:55:36 2 reference Section 170-1705.A.3. Actually, that
 00:55:42 3 was, that's comment 26. You indicate that the
 46 4 townhouse spaces, .5 of those spaces can be
 00:55:51 5 located in a convenient overflow area for
 00:55:53 6 guests. Does the plan that Toll presented
 00:55:57 7 provide an overflow parking area for the guests
 00:55:59 8 for the townhome residents?
 00:56:02 9 **A. No.**
 00:56:02 10 **Q.** And so would it be your recommendation
 00:56:04 11 that those overflow areas be added to the plan?
 00:56:07 12 **A. Yes, I think it would be good planning.**
 00:56:11 13 **Q.** Comment 31 is the next one I would like
 00:56:14 14 to highlight. And this actually I guess was
 00:56:20 15 from your original letter. You indicate that
 00:56:23 16 the applicant should consider redesigning the
 00:56:25 17 road system to continue fluidity and
 00:56:28 18 connectivity throughout the development and
 00:56:29 19 reduce the use of cul-de-sacs. Explain what
 00:56:32 20 you mean by that comment or why you put that
 00:56:34 21 comment in there.
 00:56:35 22 **A. For the record, referring to sheet 4 A**
 00:56:38 23 **of 45, there are by my count three cul-de-sacs.**
 44 24 **Those include Road A, it appears Road M, and I**

00:56:54 1 **think that's a Road N. Those are the**
 00:56:57 2 **cul-de-sacs.**
 00:56:58 3 **In my opinion, the cul-de-sacs**
 00:57:00 4 **could possibly be redesigned to create a more**
 00:57:03 5 **of a loop that you see with the other roads of**
 00:57:06 6 **the tract to avoid the dead-end of the**
 00:57:09 7 **cul-de-sac. Again, in my opinion, it makes it**
 00:57:10 8 **easier to maintain for our road crews and I**
 00:57:14 9 **think it makes for more fluid site.**
 00:57:16 10 **Q.** What about for emergency access
 00:57:17 11 vehicles, is there an issue with cul-de-sacs?
 00:57:21 12 **A. In my opinion, historically, the**
 00:57:23 13 **township has preferred, we will call them loop**
 00:57:27 14 **roads versus cul-de-sacs. They are just, in my**
 00:57:30 15 **opinion they are just better for planning.**
 00:57:33 16 **Q.** And again, going back to your letter
 00:57:38 17 that was December 9th, which was marked Board
 00:57:41 18 Exhibit 13, that comment 31 was from that
 00:57:43 19 letter. So the next one is comment 33, and
 16 20 again going back to Board Exhibit 13, which was
 00:57:49 21 your original review letter. You suggest in
 00:57:52 22 that letter that the applicant should
 00:57:54 23 coordinate with the township engineer during
 00:57:57 24 land development to select vegetation and

00:57:58 1 landscaping that will assist the township in
 00:58:00 2 meeting its MS4 permit requirements. Can you
 00:58:03 3 expound upon that comment and recommendation?
 00:58:05 4 **A. Certainly. The township is the holder**
 00:58:08 5 **of an MS4 permit. The township is also**
 00:58:11 6 **required to comply with certain new provisions**
 00:58:14 7 **from the DEP. Since the township does not own**
 00:58:17 8 **considerable portions of land in this area, it**
 00:58:20 9 **would be very beneficial and helpful to have a**
 00:58:23 10 **public/private partnership with this applicant**
 00:58:27 11 **so that the use of the nine basins can be used**
 00:58:30 12 **to mitigate or offset the pollutants to reach**
 00:58:35 13 **the township goals under MS4.**
 00:58:36 14 **Q.** And would that also achieve some of the
 00:58:39 15 objectives and requirements of the Township's
 00:58:41 16 Stormwater Management Ordinance?
 00:58:43 17 **A. Yes, specifically under 144-305 for**
 00:58:46 18 **water quality.**
 00:58:49 19 **Q.** Okay. Going back to your letter of
 00:58:53 20 March 23rd, 2017, you have a comment under
 00:58:57 21 paragraph 44, you suggest that the applicant
 00:59:00 22 should consider offering area and bulk
 00:59:02 23 restrictions for each individual lot to prevent
 00:59:05 24 future undesirable building or accessory use

00:59:08 1 layouts. Can you explain what you mean by that
 00:59:11 2 comment?
 00:59:12 3 **A. Certainly. As the ordinance is**
 00:59:17 4 **written, there are no requirements for side**
 00:59:19 5 **yard, rear yard, front yard, bulk requirements**
 00:59:23 6 **such as impervious or building coverage.**
 00:59:25 7 The applicant has offered or has
 00:59:29 8 drafted some sketch -- I shouldn't say
 00:59:32 9 sketch -- part of the application provisions
 00:59:34 10 for these setbacks.
 00:59:36 11 So in my opinion it would be a
 00:59:39 12 very intelligent condition of approval to
 00:59:43 13 require that those setbacks be fixed.
 00:59:46 14 My concern there is that
 00:59:47 15 accessory uses could potentially come into the
 00:59:49 16 site in the form of sheds, pools, any other
 00:59:53 17 amenities, and really have free reign on these
 00:59:56 18 lots.
 00:59:58 19 **Q.** The next comment, comment 45, you
 01:00:02 20 suggest that the applicant should consider
 01:00:04 21 offering percentage caps for the impervious
 01:00:07 22 coverage on each of the individual lots.
 01:00:10 23 Again, can you please explain your comment and
 01:00:11 24 what you are trying to achieve with that

01:00:13 1 recommendation?

01:00:14 2 **A. Yes. There is two primary reasons for**

01:00:17 3 **this comment, one of which has to do with**

01:00:19 4 **aesthetics, to make sure that the site doesn't**

01:00:21 5 **become overly developed as buildings and**

01:00:27 6 **impervious asphalt paving.**

01:00:30 7 **The second one has to do with**

01:00:31 8 **controlling the overall stormwater from the**

01:00:33 9 **site, make sure there is not an excessive**

01:00:37 10 **amount of stormwater that flows from the site.**

01:00:39 11 When I reread the stormwater

01:00:42 12 management report, there was a cap of 40

01:00:45 13 percent that was the current percent as a

01:00:49 14 result of the proposed buildings, the

01:00:51 15 sidewalks, the driveway, and I would offer that

01:00:54 16 that 40 percent for the impervious calculation

01:00:57 17 is a good place to start.

01:00:59 18 Understanding that there might be

01:01:02 19 a desire of future homeowners to add an

01:01:04 20 extension in the form of a patio, what have

01:01:07 21 you, I would offer that perhaps 45 percent

01:01:09 22 might be a fair number.

01:01:10 23 **Q. And how would that be done? Would that**

01:01:12 24 **be done as a restriction in the homeowners'**

01:01:15 1 declaration?

01:01:17 2 **A. Yes, I think a restriction in the**

01:01:18 3 **homeowners' association. But more importantly,**

01:01:21 4 **a condition of the conditional approval that**

01:01:25 5 **would be memorialized or recorded through the**

01:01:28 6 **approval process.**

01:01:29 7 **Q. Does it become administratively**

01:01:31 8 **difficult for the township to determine if the**

01:01:33 9 **applicant stays within the maximum allowable**

01:01:37 10 **impervious cover if it doesn't have a per lot**

01:01:40 11 **restriction?**

01:01:41 12 **A. Yes. Since it is not enforceable,**

01:01:43 13 **there is no mechanism or vehicle to compel the**

01:01:47 14 **individual homeowners to comply.**

01:01:52 15 **Q. But if it was a note on the plan then,**

01:01:54 16 **obviously, that would be much easier to**

01:01:55 17 **enforce?**

01:01:56 18 **A. Yes.**

01:01:56 19 **Q. Did you also write a memorandum to**

01:02:04 20 **Chris Patriarca, dated January 30th, 2017,**

01:02:07 21 **where you provide just general suggestions and**

01:02:08 22 **recommendations?**

01:02:08 23 **A. Yes.**

01:02:08 24 **Q. And has that been marked as Planning**

01:02:10 1 Commission Exhibit 9?

01:02:10 2 **A. Yes.**

01:02:11 3 **Q. So referring to that exhibit, you**

01:02:14 4 **suggest that the applicant utilize green**

01:02:17 5 **stormwater management technology as applicable.**

01:02:19 6 **What examples would you like to see the**

01:02:21 7 **applicant utilize when designing stormwater**

01:02:23 8 **management facilities?**

01:02:24 9 **A. The applicant has provided a, I'll call**

01:02:28 10 **it a placeholder stormwater management plan of**

01:02:31 11 **nine basins. I believe they are a combination**

01:02:34 12 **of infiltration basins, detention basins.**

01:02:36 13 **What the applicant has not**

01:02:38 14 **provided are more detailed infiltration, such**

01:02:44 15 **as infiltration trenches or more commonly used**

01:02:48 16 **best management practices. So back in 2006 the**

01:02:51 17 **DEP authored the Best Management Practice**

01:02:55 18 **Manual. Even since then the DEP has come out**

01:02:59 19 **with some additional measures that are**

01:03:00 20 **incorporated into the MS4 requirements.**

01:03:02 21 **So stormwater has developed over**

01:03:05 22 **the years, and I think that this site would**

01:03:09 23 **score a victory every single time a drop of**

01:03:13 24 **water got back into the ground versus making it**

01:03:15 1 **overland flow into the streets and then into**

01:03:20 2 **the sewer. So any specific recommendations**

01:03:21 3 **from DEP to get water back into the ground.**

01:03:24 4 **Q. Would that also achieve some of the**

01:03:27 5 **goals of the township's stormwater ordinance?**

01:03:29 6 **A. Yes.**

01:03:30 7 **Q. Any particular sections that you can**

01:03:33 8 **reference?**

01:03:33 9 **A. Yes. Under 144, 304 and 305, under**

01:03:38 10 **quality and quantity, and I want to communicate**

01:03:42 11 **that the applicant should show compliance in**

01:03:45 12 **these sections, but, in my opinion, they can be**

01:03:47 13 **more thoughtfully addressed at the land**

01:03:49 14 **development stage in more detail, to show a**

01:03:52 15 **more green plan, more environmentally friendly**

01:03:58 16 **plan.**

01:03:59 17 **Q. And lastly, you also suggest in your**

01:04:02 18 **memorandum of January 30th that the applicant**

01:04:06 19 **agree to grant to the township easements for**

01:04:08 20 **the township to perform future basin upgrades**

01:04:12 21 **which would assist the township in its MS4**

01:04:15 22 **permit requirements. Can you briefly explain**

01:04:17 23 **what you mean by that?**

01:04:18 24 **A. Yes, this is very critical. Again,**

01:04:20 **1 since the DEP has mandated not just the basic**
 01:04:24 **2 MS4 permits but also the pollutant reduction**
 01:04:28 **3 plan requirements on the township, it is going**
 30 **4 to be essential that the township be able to**
 01:04:33 **5 coordinate with large property owners, since**
 01:04:35 **6 the town doesn't have a considerable amount of**
 01:04:38 **7 land in this area.**

01:04:39 **8** So the ability to have access
 01:04:41 **9** rights, to be able to install specific types of
 01:04:44 **10** vegetation or potential upgrades would be a
 01:04:48 **11** huge victory for the township.

01:04:50 **12 Q.** And could that actually be a benefit
 01:04:52 **13** for the homeowners' association?

01:04:53 **14 A. In my opinion, yes.**

01:04:55 **15 Q.** Have you seen that be required or be
 01:05:01 **16** implemented in other municipal ordinances or
 01:05:04 **17** development approvals?

01:05:05 **18 A. Conversations about these types of**
 01:05:07 **19 partnerships has taken place. In many cases**
 01:05:10 **20 you need the cooperation and almost**
 01:05:12 **21 volunteerism of the applicant to make it**
 01:05:14 **22 happen, since there is no legal mechanism to**
 01:05:17 **23 compel someone to do this sort of effort.**

20 **24** So it is something that is going

01:05:22 **1** to become more and more commonplace. But, in
 01:05:23 **2** my opinion, if it can be done here, it would be
 01:05:26 **3** a wonderful benefit for the community.

01:05:28 **4 Q.** Would it cost the applicant any money
 01:05:30 **5** to offer these easements?

01:05:35 **6 A. I don't think in cash, not in my**
 01:05:38 **7 opinion.**

01:05:38 **8 Q.** Okay.

01:05:38 **9 A. Perhaps in somebody else's opinion.**

01:05:41 **10** MS. CAMP: Thank you. Nothing
 01:05:42 **11** further.

01:05:43 **12** MR. MCKENNA: Mr. Adelman, cross.

01:05:45 **13** MR. ADELMAN: Yes, thank you.

01:05:46 **14** CROSS-EXAMINATION

01:05:46 **15** BY MR. ADELMAN:

01:05:47 **16 Q.** Good evening, Kevin. How are you?

01:05:49 **17 A. Perfect.**

01:05:50 **18 Q.** If we could go back to where Ms. Camp
 01:05:53 **19** started with, it was comment No. 5 in the March
 50 **20** 23rd, 2017 letter, you reference a requirement
 01:06:04 **21** that the parking for the townhomes be located
 01:06:10 **22** in the rear of the property; is that correct?

01:06:11 **23 A. That is a requirement of the ordinance,**
 01:06:13 **24 that's correct.**

01:06:13 **1 Q.** Does the ordinance state townhomes or
 01:06:16 **2** does it state multi-family is required to be
 01:06:20 **3** provided in the rear of the unit?

01:06:23 **4 A. My understanding is that that section**
 01:06:25 **5 of code in the definition, which is Section 200**
 01:06:26 **6 hundred of the code --**

01:06:29 **7 Q.** Mm-hmm.

01:06:29 **8 A. -- talks about three specific types of**
 01:06:32 **9 multi-family uses, apartments, townhouses,**
 01:06:36 **10 something called quadplex, quad, so it is under**
 01:06:41 **11 the umbrella of those types of uses.**

01:06:43 **12 Q.** Doesn't a townhome only house a single
 01:06:48 **13** family?

01:06:48 **14 A. That's correct. It was a mis-reference**
 01:06:53 **15 in the ordinance.**

01:06:53 **16 Q.** How can be it be defined as a
 01:06:55 **17** multi-family if there is only one family in the
 01:06:57 **18** unit?

01:06:57 **19 A. It is my understanding that's the way**
 01:06:59 **20 the ordinance was written under Section 200.**

01:07:01 **21 Q.** Okay. In order to access the parking
 01:07:03 **22** in the rear of the townhouse, where would the
 01:07:07 **23** roadway need to be located?

01:07:09 **24 A. That would be up to your designer.**

01:07:12 **1 Q.** Would it have to be in the rear of the
 01:07:14 **2** townhouses?

01:07:16 **3 A. Again, in order to meet the letter of**
 01:07:19 **4 the law it would be, yes, yes.**

01:07:21 **5 Q.** All right. So in that case, would the
 01:07:24 **6** townhouse rear be the front? That's a
 01:07:32 **7** question.

01:07:32 **8 A. What is the front, what is the front of**
 01:07:35 **9 the building? Where is the front yard setback?**

01:07:36 **10 Q.** Under the ordinance, where is the front
 01:07:39 **11** yard defined?

01:07:40 **12 A. It would be the building facade that**
 01:07:43 **13 faces the cartway.**

01:07:45 **14 Q.** Correct. If the cartway is in the rear
 01:07:48 **15** of the house, would the rear of the house be
 01:07:51 **16** the front?

01:07:53 **17 A. Not if the -- not for an access road.**
 01:07:57 **18 If it were an alley or driveway or access road**
 01:08:00 **19 to access the rear, it wouldn't be a full**
 01:08:02 **20 public right-of-way.**

01:08:03 **21 Q.** Would there be two front yards if the
 01:08:05 **22** townhouse has a road in the front and a road in
 01:08:07 **23** the rear?

01:08:08 **24 A. It would if it had a road. However, if**

01:08:10 **1 it had an access drive or a private lane or an**
01:08:13 **2 alley, or a shared driveway, it wouldn't be a**
01:08:16 **3 considered a road.**

17 **4 Q. Does the ordinance permit parking for a**
01:08:19 **5 townhome or a multi-family, off of an alley or**
01:08:24 **6 rear service access?**

01:08:24 **7 A. I think it is, in my interpretation of**
01:08:28 **8 the ordinance, it is desirous of the ordinance**
01:08:31 **9 to have the parking in the rear.**

01:08:33 **10 Q. I understand. That wasn't my question,**
01:08:35 **11 though. Does the ordinance permit parking for**
01:08:37 **12 a multi-family unit as the ordinance defines**
01:08:40 **13 this when it takes access off of a rear alley?**
01:08:46 **14 Or do you know?**

01:08:47 **15 A. I'm a little confused with the**
01:08:48 **16 question.**

01:08:49 **17 Q. Are there any prohibitions under the**
01:08:52 **18 ordinance that prevents a multi-family dwelling**
01:08:55 **19 unit from having parking in the rear when**
01:08:59 **20 accessed from an alley or a service street?**

01:09:01 **21 A. Not to my knowledge, no.**

01:09:03 **22 Q. Okay. If we can move on to comment 26,**
01:09:09 **23 with respect to the need to provide overflow**
12 **24 parking, that's still on the same letter, March**

01:09:16 **1 23rd. Is that a requirement under the**
01:09:18 **2 ordinance to provide overflow parking? You**
01:09:23 **3 stated it was just good planning.**

01:09:25 **4 A. No, it is not a requirement. It is**
01:09:27 **5 not.**

01:09:28 **6 Q. Okay.**

01:09:30 **7 A. However, if I may add --**

01:09:32 **8 Q. Sure, go ahead.**

01:09:33 **9 A. -- in my opinion, with a townhouse**
01:09:35 **10 development, and I have lived in townhouses, my**
01:09:39 **11 family have lived in townhouses, without some**
01:09:41 **12 provision for overspill parking for events,**
01:09:43 **13 graduation parties, etcetera, it is very**
01:09:45 **14 shortsighted to simply insist that since there**
01:09:48 **15 are four, the provision for four parking spaces**
01:09:51 **16 on each lot that that is adequate parking.**

01:09:53 **17 That would primarily provide for,**
01:09:56 **18 in my opinion, the users of the future dwelling**
01:09:59 **19 and not make any provision for guests or any**
01:10:04 **20 other events. I think it is very shortsighted**
01:10:07 **21 again, my opinion, to not provide some**
01:10:08 **22 additional measures.**

01:10:10 **23 Q. But that's your practical opinion, not**
01:10:10 **24 your zoning compliance opinion, correct?**

01:10:12 **1 A. That's absolutely correct, yes.**

01:10:13 **2 Q. Sure, fair enough.**

01:10:14 **3 Moving on to comment No. 31 in**
01:10:18 **4 the December 9, 2016 letter, again, is that a**
01:10:24 **5 planning comment regarding reducing the number**
01:10:26 **6 of cul-de-sacs as opposed to an ordinance**
01:10:28 **7 zoning requirement?**

01:10:29 **8 A. Cul-de-sacs are permitted by the**
01:10:32 **9 ordinance. There is no prohibition against**
01:10:34 **10 cul-de-sacs. Therefore, in my opinion, this**
01:10:36 **11 site would be best served, similar to the**
01:10:38 **12 Rustin residential site which is right over**
01:10:40 **13 here, when that application came in with two**
01:10:43 **14 cul-de-sacs for conditional use, through the**
01:10:46 **15 good wisdom and planning of the planners at the**
01:10:48 **16 time and the Board of Supervisors, it was**
01:10:51 **17 changed to a show a loop in lieu of a**
01:10:57 **18 cul-de-sac.**

01:10:57 **19 Q. But, again, that's not a zoning**
01:10:59 **20 requirement? That's just smart planning?**

01:11:01 **21 A. That is not a zoning requirement.**
01:11:03 **22 That's smart planning.**

01:11:05 **23 Q. Moving on to comment No. 33, dealing**
01:11:08 **24 with the MS4, township's MS4 program, again, is**

01:11:16 **1 that a requirement for the applicant to satisfy**
01:11:19 **2 MS4?**

01:11:20 **3 A. No. It is not the applicant's permit.**
01:11:22 **4 It is the township permit.**

01:11:23 **5 Q. Okay.**

01:11:23 **6 A. It is, in my opinion, it is very good**
01:11:25 **7 planning and it would be a great benefit for**
01:11:30 **8 the township to have the support of the**
01:11:32 **9 applicant to meet its MS4 goals as it affects**
01:11:36 **10 all the residents of Westtown.**

01:11:38 **11 Q. Would the applicant be required to**
01:11:40 **12 obtain an NPDES stormwater permit as part of**
01:11:44 **13 its development?**

01:11:44 **14 A. To my understanding, yes.**

01:11:45 **15 Q. And would that NPDES permitting process**
01:11:49 **16 include the incorporation of best management**
01:11:52 **17 practices?**

01:11:53 **18 A. Yes.**

01:11:53 **19 Q. And could some of those best management**
01:11:55 **20 practices help satisfy the township in their**
01:11:59 **21 MS4 program requirement?**

01:12:00 **22 A. Yes.**

01:12:00 **23 Q. And who would review and approve the**
01:12:04 **24 NPDES permit?**

01:12:05 **1 A. Primarily, the permit is approved by**
01:12:07 **2 the Chester County Conservation District in**
01:12:12 **3 coordination with DEP.**

01:12:13 **4 Q. Moving back to the March 23rd, 2017**
01:12:19 **5 letter, comment No. 44, I did hear you clearly**
01:12:25 **6 state that individual lot area and bulk**
01:12:28 **7 regulations is not a zoning requirement,**
01:12:30 **8 correct?**

01:12:31 **9 A. No, that's not what I said.**

01:12:32 **10 Q. I'm sorry. Please tell me, what is**
01:12:34 **11 your requirement to impose individual lot area**
01:12:38 **12 and bulk restrictions?**

01:12:39 **13 A. They are not a requirement in the**
01:12:41 **14 flexible development procedure. They are a**
01:12:43 **15 requirement in the base. It is R-1 zoning**
01:12:46 **16 District and the A/C Agricultural. But in**
01:12:49 **17 flexible development there are no provisions.**

01:12:51 **18 Q. And we are under flexible development,**
01:12:53 **19 correct?**

01:12:53 **20 A. That's correct, yes.**

01:12:53 **21 Q. Would that be something that the**
01:12:56 **22 applicant could work out during land**
01:12:59 **23 development, when the plans are more fully**
01 **24 engineered?**

01:13:06 **1 A. I think it would be -- I think it would**
01:13:08 **2 be very smart to do it now. The reason I say**
01:13:12 **3 that is because my fear would be at land**
01:13:16 **4 development, I think the horse might be out of**
01:13:19 **5 the barn, so to speak. I think it would be**
01:13:20 **6 prudent to have those caps or have those**
01:13:26 **7 minimums set at the conditional use level.**

01:13:30 **8 Q. What if the proposed houses have not**
01:13:34 **9 been selected at this time? How do you set a**
01:13:38 **10 cap?**

01:13:38 **11 A. It is an excellent question. The only**
01:13:41 **12 thing I can do is look at the application,**
01:13:42 **13 which shows estate houses, executive houses,**
01:13:45 **14 carriage houses, and look at your engineer's**
01:13:48 **15 stormwater management report, which did show**
01:13:50 **16 very detailed descriptions of the walkways,**
01:13:52 **17 patios, driveways and houses, and make**
01:13:55 **18 provisions for what the percentages impervious**
01:13:58 **19 would be for the individual lots.**

01:14:02 **20 Q. And why would that be any different to**
01:14:04 **21 be done at the fully engineered stage as**
01:14:11 **22 opposed to the conceptual, conditional use**
01:14:13 **23 stage? Why, what is the difference between**
01:14:13 **24 imposing a condition that it be determined at**

01:14:15 **1 land development? Wouldn't the township still**
01:14:17 **2 have the ability to require what you are**
01:14:18 **3 suggesting at that point?**

01:14:21 **4 A. Yes. I don't really have a great**
01:14:22 **5 answer for that. You can almost ask, what is**
01:14:24 **6 the difference between a conditional use and**
01:14:25 **7 land development. It is a statutory thing. I**
01:14:28 **8 don't really have a strong opinion. My sense**
01:14:30 **9 would be the sooner you can get the decision**
01:14:33 **10 tree, early.**

01:14:33 **11 Q. Okay. And does that then again go to**
01:14:38 **12 comment 45 in the March 23rd, 2017 letter, is**
01:14:42 **13 the percentage cap overall also a function of**
01:14:47 **14 area and bulk regulations and impervious**
01:14:49 **15 coverage throughout the site?**

01:14:50 **16 A. Yes.**

01:14:50 **17 Q. So they are related?**

01:14:52 **18 A. Yes.**

01:14:53 **19 Q. Okay. Turning to the January 30, 2017**
01:15:03 **20 memorandum, I think you had touched on green**
01:15:09 **21 stormwater management. Is that the same as**
01:15:12 **22 what we just previously discussed with the best**
01:15:14 **23 management practices?**

01:15:15 **24 A. Yes.**

01:15:16 **1 Q. And during the full engineering and**
01:15:18 **2 permitting process would those, what I call**
01:15:21 **3 BMPs be more fully engineered and designed?**

01:15:24 **4 A. In my opinion, this is something that**
01:15:27 **5 is really a land development issue. So I**
01:15:31 **6 wouldn't have any objection to punting it, so**
01:15:33 **7 to speak, to land development. It is a detail**
01:15:36 **8 engineering issue that really should be**
01:15:37 **9 addressed at some point. But consideration of**
01:15:40 **10 provisions should be made for it now.**

01:15:42 **11 Q. And isn't it true the applicant will**
01:15:44 **12 have to incorporate these BMPs as part of its**
01:15:47 **13 stormwater permitting process?**

01:15:48 **14 A. Not necessarily, no.**

01:15:50 **15 Q. Why?**

01:15:50 **16 A. The reason is because in some cases,**
01:15:54 **17 similar to what happened at the Rustin site**
01:15:57 **18 just out here, the applicant had three giant**
01:15:59 **19 basins, but did not have, did not have**
01:16:02 **20 provisions for additional measures, things like**
01:16:06 **21 infiltration trenches, additional on-lot**
01:16:11 **22 infiltration measures, rain gardens. There**
01:16:14 **23 weren't a considerable amount of low-level**
01:16:17 **24 commitments from the developer through what was**

01:16:20 **1 also then a flexible development conditional**
 01:16:24 **2 use.**
 01:16:24 **3 Q.** When the applicant submits its NPDES or
 27 **4** stormwater design, isn't there a checklist with
 01:16:30 **5** respect to the BMPs that are or aren't
 01:16:33 **6** incorporated?
 01:16:33 **7 A. Yes.**
 01:16:34 **8 Q.** And aren't they then required to
 01:16:36 **9** include BMPs of a certain amount in order to
 01:16:39 **10** satisfy stormwater regulations?
 01:16:40 **11 A. Yes.**
 01:16:41 **12 Q.** So in essence, doesn't the applicant
 01:16:43 **13** have to include BMPs in its NPDES application?
 01:16:47 **14 A. Yes, that's true.**
 01:16:48 **15 Q.** With respect to the questions that Ms.
 01:17:01 **16** Camp asked you regarding easements to the
 01:17:03 **17** stormwater basins, who is normally the
 01:17:08 **18** permittee of stormwater basins that are
 01:17:11 **19** constructed by the developer?
 01:17:15 **20 A. The permittee, I would say to answer**
 01:17:22 **21 that, I would say that the township, through**
 01:17:25 **22 the approval process of planning, permits the**
 01:17:29 **23 construction and does primarily the review of**
 33 **24 the functionality of stormwater quality,**

01:17:37 **1 primarily the applicant is the permittee.**
 01:17:39 **2 Q.** Under the NPDES permit, correct?
 01:17:41 **3 A. Yes, that's correct.**
 01:17:42 **4 Q.** And who typically owns and maintains
 01:17:44 **5** stormwater basins?
 01:17:45 **6 A. On the whole, the private developers or**
 01:17:48 **7 private owners.**
 01:17:49 **8 Q.** If the township were to have an
 01:17:51 **9** easement to enter and upgrade the stormwater
 01:17:55 **10** basins for a purpose other than servicing the
 01:17:57 **11** development's requirements, wouldn't the
 01:18:00 **12** township then have to be at a minimum the
 01:18:03 **13** co-permittee?
 01:18:04 **14 A. I don't think so. I don't know. I**
 01:18:07 **15 don't know the answer to that question.**
 01:18:09 **16 Q.** Would the HOA then be responsible for
 01:18:12 **17** owning and maintaining the township's upgrades?
 01:18:15 **18 A. Again, that's something that could be**
 01:18:17 **19 handled through the agreement process or**
 19 **20 through the developer's agreement.**
 01:18:22 **21 Q.** If the homeowners' association or the
 01:18:25 **22** developer were not willing to grant easements
 01:18:29 **23** without the township agreeing to be a
 01:18:31 **24** co-permittee, would that be acceptable to the

01:18:36 **1** township?
 01:18:39 **2 A. Truthfully, I don't think, as I'm not a**
 01:18:43 **3 policy maker. So it is a good question. I**
 01:18:45 **4 just don't know the answer.**
 01:18:46 **5 Q.** So in order to effectuate the easements
 01:18:49 **6** you recommend, you are saying that there is
 01:18:51 **7** decisions that would need to be made beyond the
 01:18:54 **8** scope of your testimony?
 01:18:55 **9 A. Yes.**
 01:18:55 **10 Q.** And those easements involve permitting
 01:19:00 **11** rights, operations and maintenance rights,
 01:19:02 **12** other legal rights that you are not qualified
 01:19:04 **13** to testify to?
 01:19:05 **14 A. Yes.**
 01:19:07 **15** MR. ADELMAN: All right. I have
 01:19:08 **16** no further questions.
 01:19:14 **17** MR. MCKENNA: Ms. Labrum?
 01:19:15 **18** MS. LABRUM: No questions.
 01:19:17 **19** MR. MCKENNA: Mr. Thompson?
 01:19:19 **20** MR. THOMPSON: No questions.
 01:19:20 **21** MR. MCKENNA: Mr. DuFault?
 01:19:21 **22** MR. DUFAULT: No questions.
 01:19:23 **23** MR. MCKENNA: Mr. Bevilacqua?
 01:19:27 **24** MR. BEVILACQUA: No questions.

01:19:27 **1** MR. MCKENNA: Dr. Scanlon?
 01:19:28 **2** DR. SCANLON: No questions.
 01:19:29 **3** MR. MCKENNA: Mr. Feryo?
 01:19:32 **4** MR. FERYO: No questions.
 01:19:33 **5** MR. MCKENNA: Mr. Mammucari?
 01:19:36 **6** MR. MAMMUCARI: No questions.
 01:19:37 **7** MR. MCKENNA: Mr. Jones?
 01:19:39 **8** MR. JONES: No questions.
 01:19:41 **9** MR. MCKENNA: Ms. Corcoran?
 01:19:46 **10** MS. CORCORAN: No questions.
 01:19:46 **11** MR. MCKENNA: Mr. Daull?
 01:19:50 **12** MR. DAULL: No questions.
 01:19:51 **13** MR. MCKENNA: Mr. Pavelchek?
 01:19:54 **14** MR. PAVELCHEK: No questions.
 01:19:55 **15** MR. MCKENNA: Mr. or Mrs. Kramer?
 01:19:56 **16** MS. KRAMER: No questions.
 01:19:59 **17** MR. MCKENNA: Mr. Skros?
 01:20:00 **18** MR. SKROS: No questions.
 01:20:02 **19** MR. MCKENNA: Ms. Carey?
 01:20:04 **20** MS. CAREY: No questions.
 01:20:04 **21** MR. MCKENNA: Mr. or Mrs.
 01:20:06 **22** McFadden?
 01:20:07 **23** MR. MCFADDEN: Yes, I have a
 01:20:09 **24** question. It has been stated quite a few times

01:20:16 1 that there will be no street parking I think in
 01:20:21 2 this development. And you talked about
 01:20:24 3 overflow parking, and you talked about like
 27 4 parties and things like that.
 01:20:29 5 In your opinion, if there is no
 01:20:31 6 on-street parking for visitors, where would
 01:20:33 7 they have to park?
 01:20:36 8 THE WITNESS: To my knowledge,
 01:20:37 9 there is no prohibition against parking on the
 01:20:40 10 streets. The applicant's documentation shows
 01:20:45 11 that all of the provisions that are required
 01:20:48 12 for parking for this development occur in
 01:20:51 13 off-street parking, so parking in garages and
 01:20:56 14 in the driveway. So for all of the individual
 01:20:58 15 single-family houses and for the carriage
 01:21:00 16 houses, all the parking occurs off street. It
 01:21:03 17 doesn't mean that cars couldn't park in the
 01:21:05 18 cartway.
 01:21:08 19 MR. MCFADDEN: So I guess I'm
 01:21:09 20 confused. I thought they said that there will
 01:21:12 21 be no parking on any of the streets, you have
 01:21:16 22 to park in the driveway or in a garage. Is
 01:21:20 23 that correct? It has been stated I think two
 24 24 or three times within testimony before.

01:21:27 1 THE WITNESS: My understanding of
 01:21:29 2 the application, I can share that with you, is
 01:21:31 3 that for each of the 317 new houses and two
 01:21:35 4 existing houses, all of the provisions for
 01:21:37 5 parking occur on those individual lots.
 01:21:39 6 If there is additional parking,
 01:21:41 7 if guests come over, right now there is nothing
 01:21:43 8 that stops them in the township ordinances from
 01:21:46 9 parking on the street.
 01:21:48 10 MR. MCFADDEN: Okay. So I
 01:21:50 11 thought the HOA provisions said no parking on
 01:21:53 12 the street. Isn't that what I heard
 01:21:55 13 previously, previous testimony?
 01:21:57 14 THE WITNESS: Forgive me, I
 01:21:58 15 didn't attend all the meetings, but I did read
 01:22:00 16 the testimony. I don't recall reading that.
 01:22:03 17 MR. MCFADDEN: I guess I'm a
 01:22:04 18 little confused here. Okay. Thank you.
 01:22:09 19 MR. MCKENNA: Thank you, Mr.
 1 20 McFadden.
 01:22:11 21 Ms. Weller?
 01:22:12 22 MS. WELLER: No questions.
 01:22:13 23 MR. MCKENNA: Does the Board have
 01:22:14 24 any questions?

01:22:24 1 MR. HAWS: No.
 01:22:26 2 MR. MCKENNA: Ms. Camp, any
 01:22:27 3 redirect?
 01:22:28 4 MS. CAMP: Yes.
 01:22:31 5 REDIRECT EXAMINATION
 01:22:31 6 BY MS. CAMP:
 01:22:31 7 Q. Does it create a safety concern for you
 01:22:34 8 if there is no overflow parking?
 01:22:36 9 A. Pardon?
 01:22:37 10 Q. Does it create, in your mind would
 01:22:40 11 there be a safety concern if there is no
 01:22:41 12 overflow parking for the multi-family or for
 01:22:44 13 the townhomes?
 01:22:48 14 A. I would say yes.
 01:22:50 15 I would like to expand on my
 01:22:52 16 answer for that. In those areas of the
 01:22:54 17 carriage houses there are considerable curb
 01:22:56 18 cuts, considerable curb cuts. So there aren't
 01:23:01 19 easy areas for residents or future visitors to
 01:23:04 20 park. There is not easy access, which means
 01:23:07 21 people would have to park relatively far away
 01:23:09 22 and then walk to visit the future residents,
 01:23:14 23 which means you would have a lot of people
 01:23:16 24 walking either in the cartway or making their

01:23:18 1 way over the sidewalk. Potentially, it could
 01:23:20 2 be a safety issue, yes.
 01:23:21 3 Q. Okay. And Mr. Adelman talked a little
 01:23:26 4 bit about maybe the legal documentation to be
 01:23:30 5 able to memorialize if the applicant were
 01:23:33 6 willing to grant to the township easements.
 01:23:35 7 Doesn't the Stormwater Management Ordinance
 01:23:37 8 require the declarant/developer, which then
 01:23:42 9 runs to the HOA, to sign stormwater management
 01:23:45 10 operation and maintenance agreement?
 01:23:46 11 A. Yes.
 01:23:47 12 Q. And so couldn't that agreement, which
 01:23:51 13 gets recorded against the property, be the
 01:23:54 14 mechanism to memorialize whatever agreement is
 01:23:57 15 reached between the developer and the township
 01:23:59 16 with respect to access to basins?
 01:24:02 17 A. Yes.
 01:24:03 18 MS. CAMP: Nothing further.
 01:24:06 19 MR. MCKENNA: Mr. Adelman, any
 01:24:07 20 recross?
 01:24:08 21 MR. ADELMAN: No.
 01:24:10 22 MR. MCKENNA: Any questions from
 01:24:11 23 the Board?
 01:24:13 24 THE CHAIRMAN: No.

01:24:13 1 MR. MCKENNA: Okay. Thank you,
 01:24:14 2 Mr. Matson.
 01:24:17 3 MS. CAMP: Thank you.
 01:24:18 4 (Witness excused.)
 01:24:24 5 MS. CAMP: My last witness for
 01:24:24 6 the evening is Stephen Dadio.
 01:24:31 7 Kevin, can you leave the exhibits
 01:24:33 8 up there. Thanks.
 9 STEPHEN D. DADIO,
 10 the witness herein, having first been
 11 duly sworn on oath, was examined and
 01:24:57 12 testified as follows:
 01:24:57 13 DIRECT EXAMINATION
 14 BY MS. CAMP:
 01:24:58 15 Q. Can you please state your full name.
 01:25:00 16 A. Stephen Dadio.
 01:25:01 17 Q. And with whom are you employed?
 01:25:03 18 A. Cedarville Engineering Group.
 01:25:05 19 Q. And I have marked as Planning
 01:25:07 20 Commission Exhibit 4 your curriculum vitae; is
 01:25:10 21 that correct?
 01:25:10 22 A. Yes.
 01:25:11 23 Q. And can you briefly explain to the
 01:25:13 24 Board your educational and professional

01:25:16 1 experience?
 01:25:18 2 A. I have a bachelor's degree from Cornell
 01:25:20 3 University, master's degree from Penn State, 19
 01:25:24 4 years in professional consulting.
 01:25:26 5 I have been working with the MS4
 01:25:29 6 program since its inception at various
 01:25:31 7 companies, starting when the program started in
 01:25:33 8 2003.
 01:25:36 9 Q. And what is your role with Cedarville
 01:25:39 10 Engineering?
 01:25:40 11 A. My title is environmental manager.
 01:25:43 12 MS. CAMP: I would offer Mr.
 01:25:45 13 Dadio, based on the credentials in his
 01:25:48 14 curriculum vitae, as an expert in soil science.
 01:25:51 15 MR. ADELMAN: I would like to ask
 01:25:51 16 a few questions.
 01:25:54 17 VOIR DIRE EXAMINATION
 01:25:54 18 BY MR. ADELMAN:
 01:25:54 19 Q. Good evening.
 01:25:55 20 A. Good evening.
 01:25:55 21 Q. The MS4 program is a stormwater
 01:26:00 22 management program; is it not?
 01:26:02 23 A. Correct.
 01:26:02 24 Q. Isn't stormwater management typically

01:26:05 1 handled by a stormwater engineer?
 01:26:10 2 A. Yes. But this program does not require
 01:26:14 3 engineers to administer the program.
 01:26:16 4 Q. So an NPDES permit application, are you
 01:26:20 5 familiar with them?
 01:26:21 6 A. Yes.
 01:26:21 7 Q. And don't they require a professional
 01:26:24 8 engineer to certify them once submitted?
 01:26:27 9 A. Right. But they are not part of the
 01:26:29 10 MS4 program.
 01:26:30 11 Q. Okay. So could you give me some more
 01:26:32 12 detail then on what the MS4 program permit
 01:26:38 13 requirements are for the township?
 01:26:41 14 A. Well, the original six minimum control
 01:26:45 15 measures, which are public education and
 01:26:49 16 participation, public involvement and
 01:26:51 17 participation, illicit site discharge or
 01:26:55 18 illicit discharge detection and elimination,
 01:26:59 19 construction site runoff, which in this
 01:27:01 20 township is administered through Chester County
 01:27:05 21 Conservation District, post construction
 01:27:07 22 stormwater monitoring, and good housekeeping
 01:27:11 23 municipal site operations.
 01:27:13 24 And those five, five of the six,

01:27:18 1 everything except construction site runoff,
 01:27:20 2 which is administered by the Conservation
 01:27:22 3 District, we assist the township with.
 01:27:25 4 Additionally, there is the TMDL
 01:27:28 5 plan, and the pollutant reduction plan, which
 01:27:31 6 is an exercise in mapping geographic
 01:27:36 7 information systems and nutrient reduction,
 01:27:40 8 sediment reduction calculations. And DEP
 01:27:44 9 stipulates that professional engineer does not
 01:27:46 10 need to complete the pollutant reduction plan.
 01:27:49 11 Q. So is there any engineering component
 01:27:51 12 to the MS4 program?
 01:27:55 13 A. There is engineering component with the
 01:27:58 14 design of projects to address the BMPs and to
 01:28:04 15 address the issues with that. But for the
 01:28:08 16 primary component or the primary minimum
 01:28:12 17 control measure 4 is administered through the
 01:28:15 18 township's civil engineer and the Chester
 01:28:20 19 County Conservation District for calculations
 01:28:22 20 for those plans.
 01:28:23 21 But the MS4 program itself is not
 01:28:25 22 an engineering-based program.
 01:28:28 23 Q. So if you are making recommendations to
 01:28:32 24 comply with the MS4 program, isn't it true then

01:28:35 1 that your recommendations cannot be engineering
 01:28:37 2 based, your specific recommendations?
 01:28:43 3 **A. Our recommendations are DEP guidance**
 47 4 **regarding the MS4 program, reduction plan**
 5 **guidance.**
 01:28:49 6 **Q.** If it required engineered designs or
 01:28:54 7 engineered facilities, would you be qualified
 01:28:57 8 to render that suggestion?
 01:29:04 9 **A. If there are -- the normal engineering**
 01:29:11 10 **design, no. But if there are opportunities or**
 01:29:13 11 **there are projects where the guidance by the**
 01:29:16 12 **Department of Environmental Protection offers**
 01:29:19 13 **to address the situation, then you are citing**
 01:29:26 14 **the guidance, which is what, which is what I**
 01:29:31 15 **did in the initial letters.**
 01:29:35 16 **Q.** Would stormwater facilities be required
 01:29:41 17 to comply with MS4 programs?
 01:29:48 18 **A. I don't follow your question.**
 01:29:50 19 **Q.** Could a stormwater management basin be
 01:29:52 20 a mechanism to satisfy MS4 requirement?
 01:29:58 21 **A. It can, yes.**
 01:30:00 22 MS. CAMP: Mr. Adelman, I'm not
 01:30:02 23 asking Mr. Dadio to talk about specific design
 04 24 of stormwater management structures or

01:30:06 1 facilities that Toll may be implementing. His
 01:30:08 2 testimony is limited to his correspondence that
 01:30:11 3 he sent to the township in offering potential
 01:30:16 4 suggestions to the applicant to implement when
 01:30:18 5 they are doing their own stormwater management,
 01:30:20 6 that it may be beneficial to the township as
 01:30:24 7 far as their Stormwater Management Ordinance
 01:30:25 8 permits.
 01:30:26 9 Mr. Dadio was an author of the
 01:30:27 10 TMDL pollutant reduction plan. I'm not asking
 01:30:31 11 him to be specific on engineering issues.
 01:30:34 12 MR. ADELMAN: Well, I'm asking
 01:30:35 13 and I'm voir diring him on these issues based
 01:30:40 14 on his review letter, which becomes part of my
 01:30:43 15 applicant's stormwater management design and
 01:30:46 16 BMPs, best management practices.
 01:30:49 17 Therefore, I believe I have the
 01:30:50 18 right to test his qualifications to make
 01:30:53 19 requirements and suggestions with respect to
 06 20 how my client designs and permits its
 01:31:01 21 stormwater facilities and/or land development
 01:31:03 22 improvements.
 01:31:06 23 You are offering him as an expert
 01:31:07 24 in soil science; is that correct?

01:31:11 1 MS. CAMP: That's correct.
 01:31:13 2 MR. ADELMAN: So I have the
 01:31:14 3 ability to test how far that goes under the MS4
 01:31:18 4 program, I believe.
 01:31:19 5 MS. CAMP: Sure.
 01:31:20 6 BY MR. ADELMAN:
 01:31:20 7 **Q.** Switching to another topic, as a soil
 01:31:23 8 scientist, are you qualified to testify with
 01:31:26 9 respect to landscaping and vegetative
 01:31:31 10 improvements?
 01:31:34 11 **A. Well, the plants grow in the ground, so**
 01:31:38 12 **I would say yes.**
 01:31:38 13 **Q.** Have you done that in the past under
 01:31:40 14 your soil science expertise?
 01:31:43 15 I'm sorry, go ahead.
 01:31:44 16 **A. No. Well, specific to the letter**
 01:31:48 17 **written regarding stream bank restoration**
 01:31:50 18 **and/or forested plantings, yeah, I have offered**
 01:31:54 19 **guidance on that.**
 01:31:55 20 But, no, I'm not a landscape
 01:31:57 21 architect.
 01:31:59 22 **Q.** Have you personally overseen as a soil
 01:32:03 23 scientist stream restoration projects?
 01:32:07 24 **A. Yes.**

01:32:08 1 **Q.** Are you a forester?
 01:32:13 2 **A. I am not a forester.**
 01:32:14 3 **Q.** You are not an expert in forestry
 01:32:16 4 management?
 01:32:22 5 **A. No.**
 01:32:22 6 MR. ADELMAN: I don't have any
 01:32:23 7 objection to his qualifications as a soil
 01:32:25 8 scientist.
 01:32:27 9 MS. CAMP: That's what he was
 01:32:28 10 offered as.
 01:32:29 11 MR. MCKENNA: Okay. He will be
 01:32:30 12 admitted as an expert in soil science.
 01:32:32 13 BY MS. CAMP:
 01:32:34 14 **Q.** Mr. Dadio, are you familiar with the
 01:32:35 15 Township's Stormwater Management Ordinance
 01:32:37 16 which is codified in Chapter 144 of the
 01:32:40 17 Westtown Code?
 01:32:40 18 **A. Yes.**
 01:32:41 19 **Q.** And have I marked that as Planning
 01:32:42 20 Commission Exhibit 5?
 01:32:44 21 **A. Yes.**
 01:32:45 22 **Q.** Are you familiar with the federal and
 01:32:47 23 state legal requirements which require NPDES
 01:32:50 24 and MS4 permits?

01:32:51 **1 A. Yes.**
 01:32:51 **2 Q.** You went into a little bit in Mr.
 01:32:55 **3** Adelman's voir dire. Can you please explain
 57 **4** what the permit requirements are for the MS4
 01:33:00 **5** program for the township?
 01:33:01 **6 A. Yes. Under the individual NPDES permit**
 01:33:04 **7 for Westtown Township, they are responsible for**
 01:33:07 **8 all stormwater flow and associated pollutant**
 01:33:11 **9 loads that are generated within the MS4, which**
 01:33:17 **10 stands for municipal separate storm sewer**
 01:33:22 **11 system, and that are discharged to downstream**
 01:33:25 **12 storm sewers or receiving waters within the**
 01:33:27 **13 Commonwealth.**
 01:33:27 **14 Q.** And was your firm, Cedarville
 01:33:30 **15** Engineering, retained by the township to assist
 01:33:32 **16** the township in filing its MS4 permit
 01:33:35 **17** application with the Pennsylvania Department of
 01:33:38 **18** Environmental Protection?
 01:33:38 **19 A. Yes.**
 01:33:39 **20 Q.** Was Cedarville also retained by the
 01:33:41 **21** township to assist in its preparation of the
 01:33:44 **22** total daily maximum load and pollutant
 01:33:47 **23** reduction plan?
 48 **24 A. Yes.**

01:33:49 **1 Q.** And have I marked that plan as Planning
 01:33:52 **2** Commission Exhibit 6?
 01:33:54 **3 A. Yes.**
 01:33:54 **4 Q.** And can you explain what that plan is
 01:33:56 **5** and why it is necessary for the township to
 01:33:59 **6** have such a plan?
 01:34:02 **7 A. Yes. In the EPA, federal government**
 01:34:06 **8 has established, they studied certain**
 01:34:10 **9 watersheds throughout the country, and the**
 01:34:12 **10 Goose Creek Watershed was one of the watersheds**
 01:34:15 **11 in which they studied, and they determined that**
 01:34:17 **12 it was impaired due in part to storm sewer**
 01:34:21 **13 contributions.**
 01:34:22 **14 So as part of the last round of**
 01:34:26 **15 permitting, the township had to develop a TMDL,**
 01:34:30 **16 TMDL stands for total daily maximum load, so**
 01:34:33 **17 they had to reduce phosphorous from the storm,**
 01:34:37 **18 municipal storm sewer system, and that was the**
 01:34:40 **19 plan that we submitted on behalf of Westtown**
 43 **20 Township.**
 01:34:43 **21 Q.** Who ultimately will approve that TMDL
 01:34:48 **22** and pollutant reduction plan?
 01:34:49 **23 A. That will be approved by the**
 01:34:51 **24 Pennsylvania Department of Environmental**

01:34:53 **1 Protection.**
 01:34:53 **2 Q.** Were you asked by the township to
 01:34:54 **3** examine the proposed development plans for the
 01:34:57 **4** Crebilly tract and to assess what, if any,
 01:34:59 **5** measures could be implemented to comply with
 01:35:00 **6** the township's stormwater ordinance and to
 01:35:02 **7** assist the township in complying with its MS4
 01:35:06 **8** requirements?
 01:35:07 **9 A. Yes. Let me just back up to say that**
 01:35:11 **10 with the new permit, the township is required**
 01:35:13 **11 by the Department of Environmental Protection**
 01:35:16 **12 to develop a pollutant reduction plan for every**
 01:35:19 **13 stream that is impaired within the township,**
 01:35:20 **14 which is every stream except Goose Creek which**
 01:35:24 **15 has its own plan. So there actually are two**
 01:35:27 **16 pollutant plans for managing in the township.**
 01:35:29 **17** So, but, yes, the township
 01:35:32 **18** requested that we review the submitted plans,
 01:35:36 **19** the Crebilly Farm plans for the purposes of
 01:35:39 **20** addressing the pollutant reduction plan
 01:35:41 **21** specific to Radley Run and Chester Creek.
 01:35:44 **22 Q.** Did you prepare a letter to the Board
 01:35:46 **23** which outlined your findings, dated February
 01:35:49 **24** 22nd, 2017, which was previously marked Board

01:35:52 **1** Exhibit 25?
 01:35:53 **2 A. Yes.**
 01:35:54 **3 Q.** Have you reviewed the stormwater
 01:35:56 **4** management narrative that was prepared by ESE
 01:35:59 **5** Consultants, dated October 2016, that was
 01:36:02 **6** admitted as Exhibit A-13?
 01:36:03 **7 A. Yes.**
 01:36:04 **8 Q.** What streams will the stormwater runoff
 01:36:07 **9** from the Crebilly tract be discharged into?
 01:36:09 **10 A. Radley Run.**
 01:36:11 **11 Q.** And also a portion of the Chester
 01:36:14 **12** Creek?
 01:36:14 **13 A. A portion of the property is in Chester**
 01:36:16 **14 Creek, yes, so, yes, Chester Creek as well.**
 01:36:19 **15 Q.** Are Radley Run and the Chester Creek
 01:36:21 **16** designated as impaired for sediment by DEP?
 01:36:25 **17 A. Yes, they are. Radley Run is impaired**
 01:36:28 **18 for sediment. As is Chester Creek. It is**
 01:36:30 **19 called siltation officially in the DEP tables.**
 01:36:34 **20 But siltation implies sediment.**
 01:36:36 **21 Q.** And referring to Exhibit Planning
 01:36:39 **22** Commission 6, which is the TMDL and pollutant
 01:36:42 **23** reduction plan, is that shown on figure 2 with
 01:36:46 **24** the impaired streams?

01:36:48 **1 A. Yes.**
 01:36:50 **2 Q.** Based on the designation of these water
 01:36:53 **3** bodies as impaired for sediment, what does the
 56 **4** township have to do to these streams in order
 01:36:58 **5** to comply with its MS4 permit?
 01:37:01 **6 A. Well, starting in March 16th of 2018,**
 01:37:05 **7 for five years, through March 15, 2023, the**
 01:37:09 **8 township has to reduce sediment by 10 percent**
 01:37:12 **9 over that five-year period.**
 01:37:14 **10 Q.** Could the proposed development of the
 01:37:16 **11** Crebilly Farm with 317 homes cause further
 01:37:19 **12** impairment to the Radley Run and Chester Creek
 01:37:22 **13** I guess if proper stormwater management and
 01:37:25 **14** BMPs are not implemented?
 01:37:27 **15 A. Yes.**
 01:37:27 **16 Q.** What BMPs would you suggest that Toll
 01:37:30 **17** implement to improve the existing impaired
 01:37:32 **18** streams and reduce sediment from entering
 01:37:34 **19** Radley Run?
 01:37:35 **20 MR. ADELMAN:** Objection, beyond
 01:37:36 **21** the scope of the applicant's expertise.
 01:37:39 **22 MS. CAMP:** Well, I think that as
 01:37:41 **23** the draftsman of the PRP for the township he is
 45 **24** suggesting specific BMPs, again, specific to

01:37:49 **1** reducing sediment into the impaired stream.
 01:37:52 **2 MR. ADELMAN:** The witness
 01:37:53 **3** testified he is not qualified to design or
 01:37:54 **4** engineer stormwater management BMPs. That's
 01:37:57 **5** why I asked the question.
 01:37:58 **6 MR. MCKENNA:** As I remember, Mr.
 01:38:01 **7** Adelman, excuse me, he testified he doesn't
 01:38:03 **8** design them. I don't believe anyone has asked
 01:38:05 **9** him to design them. He's a soil scientist, and
 01:38:09 **10** since we are talking about sediment, it seems
 01:38:11 **11** to me that's relevant.
 01:38:12 **12 MR. ADELMAN:** Then I object. He
 01:38:13 **13** is not qualified to answer my cross-examination
 01:38:15 **14** questions with respect to the veracity and the
 01:38:18 **15** requirement of those BMPs.
 01:38:19 **16 MR. MCKENNA:** I'm not sure as I
 01:38:21 **17** understand the nature of your objection. You
 01:38:23 **18** are objecting to questions that you haven't
 01:38:24 **19** asked yet on cross-exam.
 17 **20 MR. ADELMAN:** I'm going to object
 01:38:29 **21** to all my own questions.
 01:38:30 **22 MR. MCKENNA:** So do I, but here
 01:38:32 **23** we are.
 01:38:34 **24** So, again, the report is what it

01:38:36 **1** is. He is going to testify to the contents of
 01:38:38 **2** the report. I heard your objection. We are
 01:38:40 **3** going to allow it.
 01:38:41 **4 MS. CAMP:** I'm not asking him to
 01:38:43 **5** design it. I'm not asking him to do the
 01:38:46 **6** calculation. I'm asking him broader picture of
 01:38:49 **7** when they go to design the stormwater
 01:38:51 **8** facilities to comply with the township's
 01:38:53 **9** requirements, as well as DEP's, what are some
 01:38:57 **10** things that they could keep in mind that would
 01:38:58 **11** also then be beneficial to the township in
 01:39:00 **12** achieving its permit requirements.
 01:39:01 **13 MR. ADELMAN:** I don't have the
 01:39:03 **14** ability to ask him questions on BMPs because it
 01:39:05 **15** is beyond his scope. I object to the report on
 01:39:07 **16** that basis as well.
 01:39:08 **17 MR. MCKENNA:** Understood. Your
 01:39:09 **18** objection is noted. It is overruled.
 01:39:11 **19 BY MS. CAMP:**
 01:39:12 **20 Q.** So the question was: What BMPs would
 01:39:14 **21** you suggest that Toll implement to improve the
 01:39:17 **22** existing impaired streams and reduce sediment,
 01:39:20 **23** reduce sediment from entering Radley Run?
 01:39:22 **24 A. Well, the guidance from the**

01:39:24 **1 Pennsylvania DEP in assessing for all**
 01:39:28 **2 municipalities in the Commonwealth that have to**
 01:39:30 **3 address sediment pollutant reduction, the ones**
 01:39:38 **4 that have the highest rate of sediment removal**
 01:39:41 **5 for stream bank stabilization and forested**
 01:39:43 **6 riparian buffers.**
 01:39:45 **7 Q.** And does this Crebilly tract provide an
 01:39:49 **8** opportunity for stream bank restoration?
 01:39:52 **9 A. Yes. We calculated approximately**
 01:39:57 **10 17,000 linear feet of stream that would be**
 01:39:59 **11 available for stream bank restoration. And**
 01:40:01 **12 they already are maintaining a development**
 01:40:05 **13 buffer, and given a planting density they could**
 01:40:09 **14 meet the requirements for a forested riparian**
 01:40:12 **15 buffer.**
 01:40:12 **16 Q.** Are there any provisions in the
 01:40:13 **17** township's stormwater ordinance that would
 01:40:15 **18** require Toll to implement stream restoration?
 01:40:19 **19 A. Well, in Stormwater Management**
 01:40:24 **20 Ordinance, 144-301.B, additional water quality**
 01:40:29 **21 requirements, the municipality may require**
 01:40:30 **22 additional stormwater control measures for**
 01:40:33 **23 stormwater discharge for special management**
 01:40:35 **24 areas including, but not limited to, and then**

01:40:37 **1 the first choice is the water bodies listed as**
 01:40:40 **2 impaired by DEP in both Chester Creek and**
 01:40:42 **3 Radley Run are listed as impaired by DEP.**
 15 **4 Q.** You also mentioned that another BMP
 01:40:49 **5 that Toll could implement to reduce sediment**
 01:40:52 **6 from entering Radley Run and Chester Creek**
 01:40:54 **7 would be installing forested riparian buffer;**
 01:40:57 **8 is that correct?**
 01:40:57 **9 A. Yes.**
 01:40:57 **10 Q.** Explain what that is.
 01:40:58 **11 A. Well, a riparian buffer is an area**
 01:41:01 **12 along the stream bank that is not being**
 01:41:04 **13 developed. It is going to natural vegetation.**
 01:41:07 **14 The incorporation of trees intercepts rainwater**
 01:41:11 **15 coming down, which prevents compaction of the**
 01:41:14 **16 soil, and also prevents runoff further, that's**
 01:41:19 **17 why you have less runoff in the woods than you**
 01:41:21 **18 would in agricultural field, for example.**
 01:41:24 **19 So the incorporation of trees**
 01:41:26 **20 into the existing buffer would further enhance**
 01:41:30 **21 the stormwater or the sediment reduction of**
 01:41:33 **22 this proposed development.**
 01:41:34 **23 Q.** And does Section 144-301 letter U of
 39 **24 the stormwater ordinance require a 75-foot**

01:42:57 **1 MS. CAMP: I have nothing**
 01:42:58 **2 further.**
 01:43:01 **3 MR. MCKENNA: Mr. Adelman,**
 01:43:04 **4 cross-examine?**
 01:43:05 **5 MR. ADELMAN: Sure. Thank you.**
 01:43:06 **6 CROSS-EXAMINATION**
 01:43:06 **7 BY MR. ADELMAN:**
 01:43:10 **8 Q.** You testified to Exhibit PC 6, the
 01:43:13 **9 Goose Creek TMDL and pollutant reduction plan;**
 01:43:17 **10 is that correct?**
 01:43:17 **11 A. Yes.**
 01:43:17 **12 Q.** Who prepared that plan?
 01:43:25 **13 I don't see a name here. I just**
 01:43:27 **14 see your engineering group. I do not even see**
 01:43:29 **15 a signature in the plan.**
 01:43:30 **16 A. Well, no. It was completed by our**
 01:43:34 **17 group, myself, Beth Euler completed the,**
 01:43:41 **18 completed the plan.**
 01:43:42 **19 Q.** Is Beth Euler a professional engineer?
 01:43:44 **20 A. She is not.**
 01:43:46 **21 Q.** What, does she hold any degrees? Does
 01:43:50 **22 she hold any degrees or professional**
 01:43:52 **23 certifications or registrations? What is she?**
 01:43:55 **24 A. She is a wetlands scientist.**

01:41:42 **1 riparian buffer on either side of the top of**
 01:41:44 **2 bank of a water channel?**
 01:41:46 **3 A. Yes.**
 01:41:46 **4 Q.** And do you know if the plan proposed
 01:41:50 **5 provides the 75-foot riparian buffer?**
 01:41:52 **6 A. Well, in the plans I saw, I saw the**
 01:41:57 **7 areas that were labeled as waters of the**
 01:41:59 **8 75-foot buffer. One of the areas of wetlands**
 01:42:02 **9 said 50 feet, it listed a 50-foot buffer from**
 01:42:06 **10 top of bank. So I'm not sure if that's being**
 01:42:08 **11 classified by the applicant as a stream or not.**
 01:42:10 **12 But for the most part I saw a 75-foot buffer.**
 01:42:18 **13 Q.** Are there any BMPs that you would
 01:42:21 **14 suggest Toll implement to help protect the**
 01:42:24 **15 temperature of receiving waters?**
 01:42:27 **16 A. Well, in their Stormwater Management**
 01:42:29 **17 Narrative that they submitted, they did address**
 01:42:36 **18 a temperature. I would say that a forested**
 01:42:39 **19 riparian buffer would further enhance that,**
 12 **20 where you have greater shading and you would**
 01:42:44 **21 have less thermal impacts.**
 01:42:46 **22 Q.** And is this a requirement of Section
 01:42:47 **23 144-305 letter D of the stormwater ordinance?**
 01:42:53 **24 A. Yes.**

01:43:57 **1 Q.** Wetlands scientist. Isn't it true, as
 01:44:07 **2 we just discussed, this TMDL plan, PC 6,**
 01:44:13 **3 specifies structural and nonstructural BMPs?**
 01:44:18 **4 A. Yes.**
 01:44:20 **5 Q.** And how would those structural and
 01:44:22 **6 nonstructural BMPs be permitted and approved?**
 01:44:28 **7 What is the process?**
 01:44:32 **8 A. Well, this is a planned document for**
 01:44:35 **9 the next five years for the township. And upon**
 01:44:37 **10 approval of the plan, one of our engineers**
 01:44:41 **11 would design a plan that would then be approved**
 01:44:44 **12 through the township. So for that specific,**
 01:44:47 **13 this is a planning document, not an engineering**
 01:44:49 **14 document.**
 01:44:50 **15 Q.** I understand that. But is it your
 01:44:52 **16 testimony, then, that an engineer would need to**
 01:44:54 **17 design those BMPs; isn't that correct?**
 01:44:56 **18 A. That's correct. Again, this is a**
 01:45:00 **19 planning document, so we looked at the nutrient**
 01:45:03 **20 loads that were calculated through the**
 01:45:05 **21 township --**
 01:45:05 **22 Q.** Right.
 01:45:05 **23 A. -- through GIS, and then we went**
 01:45:08 **24 through the tables and selected, in accordance**

01:45:12 **1 with the township, BMPs that would meet those**
 01:45:15 **2 goals.**
 01:45:16 **3 Q. I understand.**
 17 **4 A. Okay.**
 01:45:19 **5 Q. Would the proposed change in use of**
 01:45:21 **6 this property from a farm field to a**
 01:45:24 **7 residential development reduce certain TMDLs,**
 01:45:30 **8 certain pollution into the stream area?**
 01:45:33 **9 A. Well, it depends on the kind of farm**
 01:45:35 **10 field it was. It depends on how it was**
 01:45:37 **11 managed.**
 01:45:38 **12 Q. Well, you evaluated and issued a**
 01:45:41 **13 letter; isn't that correct?**
 01:45:42 **14 A. I evaluated the report and issued a**
 01:45:44 **15 letter, yes.**
 01:45:45 **16 Q. With respect to this proposed**
 01:45:47 **17 development of the property, correct?**
 01:45:49 **18 A. Yes.**
 01:45:49 **19 Q. Okay. So are you aware of the**
 01:45:52 **20 pollution that generally comes from an actively**
 01:45:55 **21 farmed field?**
 01:45:56 **22 A. Well, you are -- that's a very broad**
 01:46:02 **23 generalization. What kind of agronomic**
 06 **24 practices are we doing? Is this a farmer**

01:46:08 **1 maintaining a buffer? Is he or she using**
 01:46:12 **2 conservation tillage? Is it hay? Is it field**
 01:46:13 **3 crops? Is it animals?**
 01:46:14 **4 Q. Let's start with it is a horse farm.**
 01:46:16 **5 What kind of nutrients and/or pollution would**
 01:46:19 **6 you normally expect to run off into a receiving**
 01:46:24 **7 water body?**
 01:46:26 **8 A. Are the streams fenced? I have not**
 01:46:29 **9 been on the site. We were not granted access**
 01:46:31 **10 onto the site.**
 01:46:32 **11 So for a horse pasture you**
 01:46:35 **12 probably wouldn't, with perennial vegetation,**
 01:46:39 **13 you probably have very little.**
 01:46:41 **14 Q. Well, you have access to Google Earth.**
 01:46:42 **15 You could have looked at an aerial of the site**
 01:46:45 **16 before you wrote your letter; is that correct?**
 01:46:48 **17 A. No, I did look at Google Earth. But**
 01:46:50 **18 what --**
 01:46:51 **19 Q. What did you see for this property in**
 33 **20 terms of its use, present and past?**
 01:46:58 **21 A. The site, and I have been on the site,**
 01:47:01 **22 working for other companies, ten years ago, so,**
 01:47:04 **23 but I can't testify as to the date of the**
 01:47:07 **24 Google Earth map or how the agricultural -- I**

01:47:11 **1 understand what you are trying, you are trying**
 01:47:12 **2 to, if I could interpret your question, you are**
 01:47:14 **3 trying to --**
 01:47:15 **4 Q. Sure, yes.**
 01:47:16 **5 A. -- say that conventional row**
 01:47:18 **6 agricultural, with deep tillage and turning the**
 01:47:21 **7 soil over every year is far worse than a**
 01:47:23 **8 residential development. However, I don't know**
 01:47:26 **9 what the current, what the agronomic practices**
 01:47:29 **10 were of the land.**
 01:47:30 **11 Q. Isn't it true that when you have an**
 01:47:32 **12 agricultural, active agricultural site, you**
 01:47:37 **13 have nitrogen, you have phosphorus, you have**
 01:47:40 **14 multiple pollutants that come into stream**
 01:47:42 **15 bodies, correct?**
 01:47:43 **16 A. You can, yeah -- no, that is possible.**
 01:47:45 **17 But, again, there is a tremendous difference**
 01:47:47 **18 between a horse, you said it is a horse farm,**
 01:47:49 **19 which is perennial vegetation --**
 01:47:51 **20 Q. I just asked you a question.**
 01:47:52 **21 A. -- where you have runoff.**
 01:47:53 **22 Q. Let's try and answer my question.**
 01:47:55 **23 MR. MCKENNA: Gentlemen, let's**
 01:47:56 **24 try not talking over each other.**

01:47:58 **1 MR. ADELMAN: I'm going to ask my**
 01:47:59 **2 question again.**
 01:47:59 **3 MR. MCKENNA: Thank you.**
 01:48:00 **4 BY MR. ADELMAN:**
 01:48:00 **5 Q. Isn't it possible when you have an**
 01:48:03 **6 active agricultural site to have nutrients,**
 01:48:06 **7 such as nitrogen and phosphorus, just like you**
 01:48:10 **8 have in the center part of the state and you**
 01:48:12 **9 have in Chesapeake Bay, TMDLs actively pollute**
 01:48:17 **10 watercourses?**
 01:48:17 **11 A. It is possible.**
 01:48:18 **12 Q. Thank you. That's all I wanted.**
 01:48:20 **13 A. Okay.**
 01:48:20 **14 Q. Okay. Are you familiar with the**
 01:48:26 **15 Chapter 102 stormwater regulations that DEP**
 01:48:31 **16 implements?**
 01:48:31 **17 A. I am familiar with them, yes.**
 01:48:33 **18 Q. Okay. Is this watershed a high-quality**
 01:48:39 **19 or exceptional-value watershed?**
 01:48:42 **20 A. No, it is not.**
 01:48:43 **21 Q. What type of watershed is it?**
 01:48:44 **22 A. I would have to -- I know it is**
 01:48:48 **23 impaired. I believe it is cold water fishery**
 01:48:56 **24 or warm water fishery.**

01:48:57 **1** **Q.** If we look at Exhibit B 25, I think
 01:49:01 **2** that's your letter.
 01:49:02 **3** **A.** Okay.
 03 **4** **Q.** Dated February 22nd. On page 2, I
 01:49:07 **5** believe you state it was a warm water fishery?
 01:49:09 **6** **A.** Okay, warm water fishery.
 01:49:11 **7** **Q.** Isn't it true under the Chapter 102
 01:49:14 **8** regulations that riparian forested buffers
 01:49:16 **9** aren't required in areas that are warm water
 01:49:19 **10** fisheries?
 01:49:22 **11** **A.** That's correct, yes.
 01:49:27 **12** **Q.** You heard Mr. Matson's testimony,
 01:49:30 **13** correct?
 01:49:30 **14** **A.** Yes.
 01:49:31 **15** **Q.** Did Mr. Matson testify correctly that
 01:49:34 **16** the MS4 requirement is a municipal requirement
 01:49:36 **17** and not a private developer's requirement?
 01:49:40 **18** **A.** The township owns the permit, yes.
 01:49:42 **19** **Q.** So the township is obligated to comply
 01:49:44 **20** with the MS4 requirements; isn't that correct?
 01:49:46 **21** **A.** Yes.
 01:49:49 **22** **Q.** In your letter, Exhibit B 25, dated
 01:49:53 **23** February 22nd, 2017, on page 2, fourth
 02 **24** paragraph, last sentence you state: "However,

01:50:07 **1** any proposed development will contribute to the
 01:50:09 **2** further impairment of Radley Run," isn't that
 01:50:12 **3** correct?
 01:50:12 **4** **A.** Yes.
 01:50:14 **5** **Q.** Isn't this proposed development
 01:50:16 **6** required to comply with NPDES and stormwater
 01:50:19 **7** regulations?
 01:50:21 **8** **A.** Yes. And the stormwater regulations
 01:50:24 **9** are to comply with the two-year volume,
 01:50:27 **10** two-year storm for volume and up to the
 01:50:32 **11** hundred-year storm for rates, yes.
 01:50:34 **12** **Q.** Do the stormwater regulations permit a
 01:50:36 **13** developer to further impair an already impaired
 01:50:38 **14** receiving body?
 01:50:40 **15** **A.** No, they do not.
 01:50:41 **16** **Q.** So if the developer complies with the
 01:50:43 **17** stormwater regulations applicable to its
 01:50:45 **18** development, how can your statement be correct,
 01:50:49 **19** "any proposed development will contribute to
 02 **20** the further impairment"?
 01:50:54 **21** That would be illegal, wouldn't
 01:50:55 **22** it?
 01:50:55 **23** **A.** That would be illegal. The rationale
 01:51:01 **24** behind that statement was that the two-year

01:51:04 **1** volume is met. However, and the rate of a
 01:51:08 **2** storm for 5-, 10-, 20-, a hundred-year storm is
 01:51:12 **3** also met. However, it does not meet the volume
 01:51:14 **4** requirements for those storms. So large
 01:51:16 **5** storms, by nature of Chapter 102 and the
 01:51:20 **6** regulations, are not accounted for in the
 01:51:24 **7** design. Are not accounted for in the design.
 01:51:28 **8** **Q.** Are you referring to storms larger than
 01:51:30 **9** a 100-year storm?
 01:51:32 **10** **A.** No. Storms larger -- the total volume
 01:51:34 **11** larger than the two-year storm is not accounted
 01:51:37 **12** for. The rate is accounted for.
 01:51:40 **13** **Q.** So you are saying the minimum
 01:51:41 **14** requirement is the two-year pre and the
 01:51:43 **15** two-year post; is that correct?
 01:51:44 **16** **A.** Yes, it meets the minimum requirement.
 01:51:46 **17** **Q.** Understood. Broadly speaking, how is
 01:52:00 **18** the Radley Run currently impaired? What are
 01:52:03 **19** its sources of impairment?
 01:52:06 **20** **A.** Well, according to the Pennsylvania
 01:52:08 **21** DEP, it is impaired for siltation and water
 01:52:13 **22** flow variability. It does not list the
 01:52:16 **23** specific source.
 01:52:16 **24** **Q.** Do you know?

01:52:18 **1** **A.** I do not.
 01:52:21 **2** **Q.** Does your PC 6 TMDL and pollutant
 01:52:27 **3** reduction plan specify where those specific
 01:52:31 **4** sources come from?
 01:52:34 **5** **A.** We utilized the table that DEP gave us,
 01:52:37 **6** which cites the causes of the impairment.
 01:52:41 **7** **Q.** And is that the table referred to on
 01:52:43 **8** page 3 of PC 6?
 01:52:45 **9** **A.** Yes.
 01:52:46 **10** **Q.** So if I'm reading this correctly, the
 01:52:56 **11** seventh column where it says "Other Causes of
 01:52:59 **12** Impairment," are those the causes that you are
 01:53:02 **13** referring to?
 01:53:03 **14** **A.** Yes. The PRP requires that siltation
 01:53:07 **15** and nutrients, if present as a cause of
 01:53:10 **16** impairment, must be addressed, and any other
 01:53:13 **17** causes of impairment are not.
 01:53:17 **18** **Q.** And that this states almost all of them
 01:53:19 **19** "Cause Unknown," isn't that correct?
 01:53:21 **20** **A.** Yes.
 01:53:21 **21** **Q.** Would the developer's post-construction
 01:53:26 **22** stormwater management plan require
 01:53:29 **23** stabilization measures to reduce, prevent or
 01:53:33 **24** prohibit erosion and sedimentation from running

01:53:37 1 off the site?
 01:53:38 2 **A. Yes.**
 01:53:41 3 **Q.** You recommend stream restoration and
 51 4 forested riparian buffers. I think your
 01:53:53 5 testimony earlier was you had been on the site
 01:53:56 6 many years ago; is that correct?
 01:53:57 7 **A. Yes.**
 01:53:58 8 **Q.** But not recently?
 01:53:59 9 **A. Correct.**
 01:54:00 10 **Q.** When you were on the site many years
 01:54:01 11 ago, did you evaluate whether stream
 01:54:04 12 restoration along the watercourse was even
 01:54:07 13 feasible?
 01:54:09 14 **A. That was not my purview when I was on**
 01:54:13 15 **the site. So I was -- that was a long time**
 01:54:18 16 **ago.**
 01:54:18 17 **Q.** So do you even know if it is feasible?
 01:54:22 18 **A. Well, stream restoration is always**
 01:54:24 19 **feasible, stream bank restoration.**
 01:54:27 20 **Q.** What exactly are you referring to,
 01:54:29 21 then, when you say "stream restoration" in
 01:54:32 22 terms of what types of? The very general,
 01:54:36 23 broad term, isn't that correct?
 38 24 **A. Stream bank restoration.**

01:54:39 1 **Q.** As used in your letter Exhibit B 25?
 01:54:43 2 **A. Well, stream bank restoration is**
 01:54:46 3 **stabilizing the banks of a stream, eroded**
 01:54:48 4 **areas.**
 01:54:48 5 **Q.** How? There is many different ways?
 01:54:50 6 **A. Yes, there is many different ways, yes.**
 01:54:51 7 **Q.** So you are not specifying one way or
 01:54:53 8 over another?
 01:54:55 9 **A. I am not. I am not advocating for a**
 01:54:58 10 **specific type of material utilized.**
 01:55:01 11 **Q.** And is that the same with respect to
 01:55:02 12 forested riparian buffers, you are not
 01:55:05 13 specifying any specific type of reforestation
 01:55:08 14 along the area?
 01:55:09 15 **A. I'm not specifying anything for that,**
 01:55:13 16 **towards moving forward in the process. You**
 01:55:17 17 **know, perhaps some landscaping could be**
 01:55:19 18 **incorporated into that to meet the**
 01:55:23 19 **requirements. It would state in the**
 25 20 **application as well.**
 01:55:25 21 **Q.** These are just generalized suggestions;
 01:55:28 22 is that correct?
 01:55:28 23 **A. Yes.**
 01:55:28 24 **Q.** So when you say in the last sentence

01:55:31 1 under the forested riparian buffer: "Per the
 01:55:34 2 PA DEP BMP Effective Value tables, the
 01:55:38 3 reduction of sediment is 50 percent for the
 01:55:40 4 volume of water that passes through this
 01:55:42 5 buffer," you don't know whether that's true or
 01:55:44 6 not with respect to this site; is that correct?
 01:55:47 7 It is on page 2, bottom of page 2 of your
 01:55:50 8 letter, February 22nd, 2017.
 01:55:53 9 **A. Well, that's, that's what the guidance**
 01:55:57 10 **that DEP has set forth is, that that's the**
 01:56:01 11 **credit you get for it. They do not ask you to**
 01:56:03 12 **measure it. They do not ask you to quantify**
 01:56:05 13 **it. But that's what you would get, the value.**
 01:56:07 14 **Q.** That's similar to the BMP checklist
 01:56:09 15 that you do in a stormwater application, if you
 01:56:11 16 know?
 01:56:11 17 **A. Yes.**
 01:56:31 18 MR. ADELMAN: Nothing further.
 01:56:32 19 Thank you.
 01:56:36 20 MR. MCKENNA: Ms. Labrum, any
 01:56:37 21 questions?
 01:56:38 22 MS. LABRUM: None.
 01:56:39 23 MR. MCKENNA: Mr. Thompson?
 01:56:42 24 MR. THOMPSON: No.

01:56:43 1 MR. MCKENNA: Mr. DuFault?
 01:56:45 2 MR. DUFAULT: No.
 01:56:46 3 MR. MCKENNA: Mr. Bevilacqua?
 01:56:51 4 MR. BEVILACQUA: No.
 01:56:52 5 MR. MCKENNA: Mr. Scanlon?
 01:56:53 6 DR. SCANLON: No.
 01:56:54 7 MR. MCKENNA: Mr. Feryo?
 01:56:56 8 MR. FERYO: Nothing.
 01:56:56 9 MR. MCKENNA: Mr. or Mrs.
 10 Harkins?
 01:56:58 11 MS. HARKINS: No questions.
 01:56:59 12 MR. MCKENNA: Mr. Mammucari?
 01:57:03 13 A VOICE: He left.
 01:57:04 14 MR. MCKENNA: Mr. Jones?
 01:57:06 15 MR. JONES: No questions.
 01:57:09 16 MR. MCKENNA: Ms. Corcoran?
 01:57:10 17 MR. CORCORAN: No questions.
 01:57:11 18 MR. MCKENNA: Mr. Daull?
 01:57:18 19 Mr. Pavelchek?
 01:57:19 20 MR. PAVELCHEK: No questions.
 01:57:20 21 MR. MCKENNA: Mr. or Mrs. Kramer?
 01:57:23 22 MS. KRAMER: No questions.
 01:57:23 23 MR. MCKENNA: Mr. Skros?
 01:57:25 24 MR. SKROS: No questions.

01:57:26 **1** MR. MCKENNA: Ms. Carey?
 01:57:30 **2** Mr. or Mrs. McFadden?
 01:57:32 **3** MR. MCFADDEN: No questions.
 33 **4** MR. MCKENNA: Ms. Weller?
 01:57:34 **5** MS. WELLER: No questions.
 01:57:35 **6** MR. MCKENNA: Does the Board have
 01:57:36 **7** any questions?
 01:57:40 **8** MS. DEWOLF: When you were
 01:57:45 **9** working on the plan for the township --
 01:57:48 **10** THE WITNESS: Yes.
 01:57:49 **11** MS. DEWOLF: -- and the
 01:57:50 **12** recommendations, did April Bartkowski, a
 01:57:53 **13** professional engineer, review and approve your
 01:57:55 **14** plans prior to submitting them to the township?
 01:57:59 **15** THE WITNESS: Yes, she does.
 01:58:00 **16** MS. DEWOLF: And is she a
 01:58:05 **17** professional engineer who deals specifically in
 01:58:08 **18** water resources and mitigation and this kind of
 01:58:13 **19** specialty?
 01:58:13 **20** THE WITNESS: Yes.
 01:58:15 **21** MS. DEWOLF: Thank you.
 01:58:21 **22** Secondly, were you familiar with
 01:58:22 **23** our most recent recommendations that were
 26 **24** presented to the township this past week on the

01:58:30 **1** mitigation for our MS4 permit?
 01:58:35 **2** THE WITNESS: Yes.
 01:58:36 **3** MS. DEWOLF: So you are also
 01:58:42 **4** familiar with the costs that the township has
 01:58:49 **5** to bear in order to correct some of these
 01:58:51 **6** things?
 01:58:52 **7** THE WITNESS: Yes.
 01:58:53 **8** MS. DEWOLF: In respect to Radley
 01:58:59 **9** Run, there was certain linear feet that needed
 01:59:01 **10** to be mitigated at this time for the sediment
 01:59:06 **11** loads that we have now?
 01:59:08 **12** THE WITNESS: Yes.
 01:59:10 **13** MS. DEWOLF: That are defined.
 01:59:11 **14** With a development we know that there will be
 01:59:17 **15** additional costs and sediment loading, would
 01:59:24 **16** you agree, from a new development, in addition
 01:59:27 **17** to what we have projected at this time?
 01:59:32 **18** THE WITNESS: Yes.
 01:59:34 **19** MS. DEWOLF: And could that mean
 39 **20** or equal additional mitigation measures that we
 01:59:43 **21** would have to do in addition to the linear feet
 01:59:46 **22** that you presented to us in the past week, for
 01:59:53 **23** buffering and BMPs, etcetera?
 01:59:57 **24** THE WITNESS: Yes, yes, they

01:59:59 **1** could be.
 02:00:00 **2** MS. DEWOLF: And another
 02:00:01 **3** question, because our mitigation is for
 02:00:06 **4** sediment, with a new development, could we have
 02:00:11 **5** other issues that may compromise the quality of
 02:00:16 **6** Radley Run in addition to sediment loads?
 02:00:19 **7** Could there be now nutrient, phosphorous,
 02:00:24 **8** nitrogen, calcium nitrogen and nitrates, in
 02:00:29 **9** addition to the sediment loads that we are
 02:00:35 **10** currently dealing with?
 02:00:36 **11** THE WITNESS: Well, the
 02:00:37 **12** engineering design is intended to meet the
 02:00:39 **13** sediment and nutrient impacts from that
 02:00:44 **14** development. However, it may be possible that
 02:00:49 **15** post construction something may occur.
 02:00:52 **16** MS. DEWOLF: Could you please
 02:00:53 **17** repeat that again? I didn't understand your
 02:00:54 **18** answer.
 02:00:55 **19** THE WITNESS: Well, the proposed
 02:00:56 **20** design as approved through their NPDES permit
 02:01:01 **21** is addressed, is designed to address sediment
 02:01:04 **22** and/or nutrients from the proposed development.
 02:01:11 **23** Is it possible that further
 02:01:15 **24** degradation may result after the construction

02:01:18 **1** is completed? It is possible.
 02:01:21 **2** MS. DEWOLF: So your projections
 02:01:24 **3** that you gave the township for the mitigation
 02:01:30 **4** this past week were based on the existing
 02:01:34 **5** conditions now or the new development?
 02:01:39 **6** THE WITNESS: You are talking
 02:01:39 **7** about the PRP plan that was discussed for the
 02:01:43 **8** township?
 02:01:45 **9** MS. DEWOLF: The MS4 permit
 02:01:47 **10** mitigation that we just went over on Monday at
 02:01:49 **11** our meeting.
 02:01:51 **12** THE WITNESS: Yes. That was
 02:01:52 **13** addressing the, that was addressing the current
 02:01:58 **14** baseline loads and how that can be addressed
 02:02:00 **15** over the next five-year period.
 02:02:10 **16** (Board members conferring.)
 02:02:39 **17** MS. DEWOLF: Does this water
 02:02:41 **18** surface immediately downstream that we also
 02:02:44 **19** need to be concerned with? Are you familiar
 02:02:46 **20** with anything immediately downstream where this
 02:02:50 **21** water quality is important to, as well?
 02:02:56 **22** THE WITNESS: Well, I mean, water
 02:02:58 **23** quality is always important. But there is
 02:02:59 **24** nothing immediately downstream that is of

02:03:02 1 concern.

02:03:04 2 A VOICE: Quarry Swimming

02:03:07 3 Association is downstream.

06 4 MR. ADELMAN: Objection.

02:03:09 5 A VOICE: I have a pond --

02:03:10 6 MR. MCKENNA: Ladies and

02:03:12 7 gentlemen, as much as I appreciate your

02:03:13 8 comments, now is not the time to yell them out.

02:03:16 9 Until you are recognized, I would appreciate

02:03:18 10 you would please keep your comments to yourself

02:03:19 11 and let the Board ask their questions. Thank

02:03:21 12 you.

02:03:22 13 MS. DEWOLF: Do new developments

02:03:24 14 impact water quality?

02:03:29 15 THE WITNESS: The regulations set

02:03:30 16 forth by the state are designed not to impact

02:03:34 17 water quality.

02:03:42 18 MS. DEWOLF: I have one more, but

02:03:43 19 I'm going to think about it and pass.

02:03:48 20 MR. HAWS: Just one question. I

02:03:50 21 know Mr. Adelman had asked you to comment on

02:03:55 22 your Exhibit B 25 on the second page, the

02:04:00 23 paragraph that talked about "The stormwater

01 24 management design of the proposed development

02:04:05 1 must meet the requirements of Westtown Township

02:04:08 2 Stormwater Management Ordinance. Stormwater is

02:04:11 3 proposed to be managed primarily through the

02:04:13 4 installation of infiltration basins." And then

02:04:16 5 your next comment was: "However, any proposed

02:04:19 6 development will contribute to the further

02:04:21 7 impairment of Radley Run."

02:04:23 8 So just so I understand

02:04:24 9 correctly, the development is coming in and it

02:04:28 10 is meeting the criteria to keep the quality the

02:04:34 11 same, if not a little bit better than what it

02:04:38 12 is today, correct?

02:04:40 13 THE WITNESS: Yes. Really, that

02:04:42 14 comment is more of a general statement. They

02:04:45 15 are meeting the regulations, the minimum

02:04:47 16 regulations set forth by the state.

02:04:50 17 MR. HAWS: So it is the minimum

02:04:51 18 regulations set by the state?

02:04:52 19 THE WITNESS: Right.

03 20 MR. HAWS: So the comment that

02:04:54 21 you make there saying that it won't help the

02:04:59 22 impairment of the river if you are not doing

02:05:01 23 anything extra, such as stream restoration and

02:05:08 24 things, it won't improve the quality? It will

02:05:10 1 keep it as is, because we are doing the bare

02:05:14 2 minimum requirements for stormwater practices;

02:05:18 3 is that correct?

02:05:18 4 THE WITNESS: Yes. And I would

02:05:19 5 imagine that that is why 144-301.P lists

02:05:27 6 impaired waters as an area in which a township

02:05:29 7 may require additional water quality

02:05:32 8 requirements.

02:05:33 9 MR. HAWS: Thank you very much.

02:05:35 10 THE CHAIRMAN: The linear feet

02:05:40 11 for the Radley Run is 17,000 linear feet. Is

02:05:47 12 that just Crebilly or is that the entire Radley

02:05:50 13 Run?

02:05:50 14 THE WITNESS: Our GIS, one of our

02:05:53 15 GIS staff measured it on Crebilly Farm

02:05:56 16 property.

02:05:57 17 THE CHAIRMAN: Okay. And are

02:05:58 18 there tributaries also on Crebilly?

02:06:02 19 THE WITNESS: It included all of,

02:06:04 20 everything that connected to Radley Run.

02:06:06 21 THE CHAIRMAN: Okay. Thank you.

02:06:10 22 MR. MCKENNA: Carol?

02:06:20 23 MS. DEWOLF: No.

02:06:21 24 MR. MCKENNA: Any redirect?

02:06:22 1 MS. CAMP: Yes. I'll be quick.

02:06:24 2 REDIRECT EXAMINATION

02:06:24 3 BY MS. CAMP:

02:06:24 4 Q. Doesn't the applicant have choices in

02:06:27 5 deciding which BMPs to implement to be able to

02:06:30 6 adhere to township stormwater regulations as

02:06:33 7 well as state NPDES requirements?

02:06:34 8 A. Yes.

02:06:35 9 Q. And isn't the purpose of your

02:06:36 10 recommendations in Exhibit B 25 to suggest that

02:06:41 11 Toll consider measures that basically would

02:06:44 12 kill two birds with one stone, and that is

02:06:46 13 comply with stormwater management regulations,

02:06:48 14 comply with NPDES requirements, as well as

02:06:50 15 assist the township in its MS4 permit?

02:06:53 16 A. Yes.

02:06:53 17 Q. And isn't it common for applicants to

02:06:55 18 work cooperatively with the township and their

02:06:59 19 engineers and planners when designing the BMPs

02:07:02 20 for a development of this size?

02:07:04 21 A. Yes. We have addressed MS4 or written

02:07:08 22 letters on behalf of communities we represent

02:07:11 23 in two other, two other communities at this

02:07:14 24 stage, at the conditional use stage.

02:07:17 **1 Q.** And if granted access to the site by
 02:07:19 **2** the applicant, during the land development
 02:07:21 **3** process couldn't you and your firm assist Toll
 24 **4** in providing more concrete examples of how they
 02:07:27 **5** could implement stream bank restoration and
 02:07:30 **6** forested riparian buffers?
 02:07:33 **7 A. Yes, we certainly could have that**
 02:07:35 **8 discussion.**
 02:07:36 **9 MS. CAMP:** Nothing further.
 02:07:38 **10 MR. MCKENNA:** Any recross, Mr.
 02:07:40 **11 Adelman?**
 02:07:40 **12 MR. ADELMAN:** Yes, I have a
 02:07:41 **13** couple questions.
 02:07:42 **14 RECROSS-EXAMINATION**
 02:07:43 **15 BY MR. ADELMAN:**
 02:07:43 **16 Q.** Who is April Bartkowski?
 02:07:45 **17 A. She is the president and CEO of**
 02:07:48 **18 Cedarville Engineering.**
 02:07:49 **19 MR. MCKENNA:** Can we make sure we
 02:07:50 **20** get her name right. Is it Barkasi? B-A-R --
 02:07:51 **21 MR. ADELMAN:** I apologize.
 02:07:52 **22 MR. MCKENNA:** B-A-R-K-A-S-I. Not
 02:07:56 **23** your fault, Mr. Adelman.
 58 **24 MR. ADELMAN:** Thank you. I was

02:07:58 **1** just repeating what was previously said.
 02:08:00 **2 MR. MCKENNA:** Understood.
 02:08:03 **3 THE WITNESS:** Another engineer
 02:08:03 **4** who did work, another professional engineer who
 02:08:05 **5** did work on our plan was Tanya O'Kane, O
 02:08:10 **6** apostrophe K-A-N-E, who worked with us in
 02:08:13 **7** looking at the BMPs.
 02:08:19 **8 BY MR. ADELMAN:**
 02:08:19 **9 Q.** This was for plan PC 6, correct?
 02:08:22 **10 A. Yes.**
 02:08:22 **11 Q.** Could you define what the scope of
 02:08:25 **12** their work was with respect to that plan?
 02:08:28 **13 A. Well, the scope of the work was, if I**
 02:08:37 **14 was just going to list those four people, Beth**
 02:08:39 **15 Euler did the GIS analysis, looking at the**
 02:08:43 **16 existing loading within the township.**
 02:08:46 **17 And then Tanya O'Kane assisted in**
 02:08:51 **18 identifying the BMPs that could meet those**
 02:08:53 **19 goals and running the calculations.**
 35 **20 And then I reviewed the report.**
 02:08:58 **21 And April is the president of this company,**
 02:09:02 **22 well-known and respected stormwater engineer,**
 02:09:04 **23 reviewed it as well.**
 02:09:05 **24 Q.** Yes, I am familiar with her.

02:09:08 **1 A. Okay.**
 02:09:13 **2 MR. ADELMAN: I have nothing**
 02:09:14 **3 further. Thank you.**
 02:09:16 **4 MR. MCKENNA:** The Board has more
 02:09:19 **5** questions?
 02:09:20 **6 MS. DEWOLF:** I would like to
 02:09:22 **7** clarify that last comment. When you looked at
 02:09:27 **8** the BMPs that could be met, you looked at Goose
 02:09:33 **9** Creek, but you had to look at Radley Run,
 02:09:36 **10** right? So there was no site selection for
 02:09:40 **11** Radley Run? It was here and only here?
 02:09:45 **12** Whereas Goose Creek had a whole option of
 02:09:48 **13** alternative sites to utilize, for Radley Run it
 02:09:53 **14** is only on Crebilly Farm?
 02:09:56 **15 THE WITNESS:** Well, in addressing
 02:09:59 **16** either a TMDL or pollutant reduction plan, the
 02:10:02 **17** first, your first step is to look at
 02:10:04 **18** township-owned property, and look at, the term
 02:10:08 **19** is low-hanging fruit, look at opportunities
 02:10:11 **20** where you can do, have an impact.
 02:10:14 **21 This happened to be an**
 02:10:20 **22** opportunity that we felt on behalf of the
 02:10:22 **23** township where the pollutant reduction plan
 02:10:25 **24** could be addressed within this watershed. And

02:10:27 **1** it is also a fairly substantial portion of land
 02:10:30 **2** within the Radley Run watershed, in Westtown
 02:10:38 **3** Township.
 02:10:38 **4 MS. DEWOLF:** Where in addition to
 02:10:41 **5** Crebilly Farm is the Radley Run watershed?
 02:10:45 **6 THE WITNESS:** Yes.
 02:10:46 **7 MS. DEWOLF:** The whole watershed,
 02:10:49 **8** in respect to where it is in Westtown, is in
 02:10:52 **9** Crebilly Farm? There is no other --
 02:10:58 **10 THE WITNESS:** I understand that,
 02:10:59 **11** the pollutant reduction plan can -- each stream
 02:11:04 **12** does not need its own BMPs to address it. So
 02:11:08 **13** the pollutant reduction plan for Radley Run is
 02:11:09 **14** within the greater Chester Creek Watershed. So
 02:11:12 **15** that there are opportunities within the
 02:11:14 **16** township. However, to specifically address the
 02:11:18 **17** issues with Radley Run, this is where the
 02:11:20 **18** opportunity is.
 02:11:22 **19 MS. DEWOLF:** Excuse me. The
 02:11:24 **20** Radley Run Watershed is in the Brandywine
 02:11:28 **21** Watershed. Radley Run --
 02:11:30 **22 THE WITNESS:** Yes.
 02:11:31 **23 MS. DEWOLF:** Chester Creek
 02:11:33 **24** goes -- Goose Creek, sorry, goes to Chester

02:11:36 **1** Creek. Radley Run, the only place we can
 02:11:41 **2** satisfy our sediment load which we are required
 02:11:44 **3** to do by DEP is on this site?
 49 **4** THE WITNESS: Yeah, that is
 02:11:50 **5** correct.
 02:11:51 **6** MS. DEWOLF: Thank you.
 02:11:52 **7** THE WITNESS: The PRP is not
 02:11:54 **8** specific to Radley Run. It is specific to the
 02:11:55 **9** township.
 02:12:03 **10** MS. DEWOLF: I'm done.
 02:12:05 **11** MR. MCKENNA: Ms. Camp, any
 02:12:07 **12** further questions?
 02:12:07 **13** MS. CAMP: No.
 02:12:08 **14** MR. MCKENNA: Mr. Adelman,
 02:12:09 **15** anything based on that? I know you can't help
 02:12:12 **16** yourselves.
 02:12:12 **17** MR. ADELMAN: No.
 02:12:14 **18** MR. MCKENNA: Thank you.
 02:12:15 **19** Anything further from the Board?
 02:12:16 **20** MS. DEWOLF: No.
 02:12:16 **21** MR. MCKENNA: Thank you, Mr.
 02:12:19 **22** Dadio.
 02:12:20 **23** (Witness excused.)
 21 **24** MR. MCKENNA: Ms. Camp, anything

02:12:22 **1** further for this evening?
 02:12:23 **2** MS. CAMP: No. I would like to
 02:12:24 **3** call Bill Malin. He was on vacation.
 02:12:26 **4** Otherwise, I would have had him available for
 02:12:28 **5** tonight. Because I don't expect his testimony
 02:12:30 **6** to be long.
 02:12:30 **7** Just for purposes of the
 02:12:31 **8** planning, I think I had referred to this today
 02:12:33 **9** in e-mail communication, but just for people in
 02:12:36 **10** the audience that were not privy to that, Mr.
 02:12:41 **11** Adelman will be recalling Nicole Kline as a
 02:12:43 **12** traffic expert, and I guess there are
 02:12:46 **13** additional cross-examination or
 02:12:47 **14** recross-examination, redirect.
 02:12:48 **15** At the conclusion of that, the
 02:12:51 **16** township planning will be calling Al Federico,
 02:12:54 **17** who is the township transportation expert and
 02:12:57 **18** engineer. So we would like to, because the
 02:12:59 **19** topic will be transportation, we would like to
 31 **20** go right into his testimony. We are assuming
 02:13:03 **21** that that will take the majority of the hearing
 02:13:05 **22** in July. If it does not, and we will, as it
 02:13:11 **23** gets closer, coordinate with Mr. Adelman, we
 02:13:13 **24** could have Mr. Malin available for that

02:13:14 **1** evening, because he is in town on July 27th.
 02:13:18 **2** We intend at the August hearing
 02:13:20 **3** to call witnesses with respect to the
 02:13:23 **4** historical significance of the property. And I
 02:13:27 **5** think that will be all we will call. But I
 02:13:31 **6** will let everybody know if we intend to call
 02:13:33 **7** anybody else.
 02:13:33 **8** MR. ADELMAN: I appreciate that.
 02:13:34 **9** If that's your only witness, I might ask the
 02:13:36 **10** next parties to be prepared, if the township
 02:13:38 **11** could so direct them, to start calling their
 02:13:40 **12** witnesses as well.
 02:13:41 **13** MR. MCKENNA: You mean for July
 02:13:42 **14** or August?
 02:13:43 **15** MR. ADELMAN: August.
 02:13:43 **16** MR. MCKENNA: Yes, absolutely.
 02:13:45 **17** 100 percent agree with that.
 02:13:46 **18** MR. ADELMAN: Thank you.
 02:13:47 **19** MR. MCKENNA: Mr. Adelman, will
 02:13:48 **20** you have anyone additional after Ms. Kline?
 02:13:50 **21** MR. ADELMAN: Not on direct, no.
 02:13:52 **22** Possibly rebuttal, obviously, once everyone
 02:13:54 **23** else's witnesses have testified.
 02:13:56 **24** MR. MCKENNA: Okay. All right.

02:13:57 **1** Ladies and gentlemen, we are going to continue
 02:13:59 **2** the hearing this evening until July 25th. It
 02:14:03 **3** will be here again at Rustin. It will again be
 02:14:06 **4** from 6:00 until 10:00 o'clock, if need be.
 02:14:09 **5** We have scheduled out a date in
 02:14:11 **6** August. It will be August 29th, same location,
 02:14:14 **7** same timeframe. Thank you all for coming this
 02:14:18 **8** evening.
 02:14:19 **9** Thank you again to all of the
 02:14:20 **10** Rustin staff for all their assistance this
 02:14:22 **11** evening.
 02:14:25 **12** (Proceedings conclude at 9:39
 13 p.m.)
 02:14:26 **14** *****
 02:14:26 **15** I N D E X
 16
 17 WITNESS DIRECT CROSS REDIRECT
 18 David C. Babbitt
 19 By Mr. Adelman 810 888
 20 By Ms. Camp 837
 21 By Mr. Thompson 843
 22
 23 Michael McDonald
 24 By Ms. Camp 896

1 WITNESS DIRECT CROSS REDIRECT

2 Kevin M. Matson

3 By Ms. Camp 913 943

4 By Mr. Adelman 926

5 Stephen D. Dadio

6 By Ms. Camp 945 984

7 By Mr. Adelman 963

8 (Voir Dire - 946)

9 (Recross - 985)

11 EXHIBITS

12 PLANNING COMMISSION EXHIBITS

- 01-17-20 13 PC-2 - Excerpt of book *Military History of the*
- 01-17-18 14 *Battle that Lost Philadelphia but Saved*
- 01-17-14 15 *America*, pages 314 through 321
- 16 PC-3 - Minutes from scoping meeting, 4/17/17
- 17 PC-4 - Dadio CV
- 18 PC-5 - Westtown Twp. Stormwater Management
- 19 Ordinance, Chapter 144 of Westtown Code
- 20 PC-6 - 6/9/17 Goose Creek TMDL and Pollutant
- 21 Reduction Plan
- 22 PC-7 - Matson CV
- 23 PC-8 - 3/23/17 E-mail, Matson to Patriarca
- 24 PC-9 - 1/30/17 Matson e-mail to Patriarca

1 Commonwealth of Pennsylvania)
 2 Chester County)

5 CERTIFICATE OF REPORTER

7 I, Eleanor J. Schwandt, Registered
 8 Merit Reporter and Notary Public, do hereby
 9 certify that the foregoing record, pages 805 to
 10 994 inclusive, is a true and accurate
 11 transcript of my stenographic notes taken on
 12 June 20, 2017, in the above-captioned matter.

14 IN WITNESS WHEREOF, I have hereunto
 15 set my hand and seal this 26th day of June,
 16 2017.

17 

Eleanor J. Schwandt

1 APPLICANT'S EXHIBITS

- 2 A-25 - Babbitt CV
- 3 A-26 -Babbitt Fiscal Impact Analysis, 10/13/16
- 4 A-27 - Babbitt Fiscal Impact tables (3 tables)

6 CERTIFICATE OF REPORTER PAGE 995

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