



RICHARD D. PHELAN

BOROUGH MANAGER

MEMORANDUM

TO: Mayor and Council
FROM: Richard Phelan 
DATE: March 18, 2010
SUBJECT: Manager's Annual Report - 2009

For the first time in many years, in accordance with N.J.S.A.40:69A-95(g), I am pleased to present the Mayor and Council with the 2009 Annual Report

SUMMARY

To say that 2009 was a difficult year as Borough Manager is an understatement. The lax financial oversight and poor fiscal management from past years made for a very challenging transition, especially due to the fact that my employment began nearly four (4) months into the budget year. Almost instantly it was apparent to me that the Borough failed to plan accordingly for both present and future needs. I can only speculate on the "how's" and "why's" this occurred, but I was faced with this very large hurdle instantly. In order to gain some perspective on what challenges the Borough was faced when I began, I present the following:

- As of 1/1/08, the fund balance was \$564,381.
- \$525,000 was anticipated in the 2008 budget but none of it was replaced through operations.
- As of 12/31/2008, there was a deficit in operations of \$22,973.
- The 2008 budget appropriations and revenue projections were too high, to which the state of the economy exacerbated our financial problems. As a result, we could not anticipate any surplus in 2009.
- Our debt-ratio is very high.
 - Our total was over 2%, which is considered extremely high for a municipality our size.
- Cash flow over the past years has been a major problem, which has caused the Borough to take out several Tax Anticipation Notes (TAN's) in order to operate.
- The 2008 Tax collection rate was 95.76%, which is lower than the 2007 collection rate of 96.74%. As a result, the reserve for uncollected tax amount that we had to include in the 2009 budget was extremely high.

As a result of the above, our preliminary 2009 budget would have required a \$0.31 tax increase, which is \$497,639 over the Levy CAP. It goes without saying that a tax increase of this nature is unacceptable. As a result, I began making drastic changes to the internal operations of the Borough in order to help stabilize the Borough's finances, which included but was not limited to the following:

- Reduction of departmental budgets to amounts reflecting 5 – 20 percent, depending on the department, from the 2008 budget.

- Creation of separate accounts for Current Fund, General Capital, Sewer Operating & Sewer Capital for better financial oversight.
 - This included ceasing the practice of interfund accounting, which allowed moving funds from one fund to another.
 - NOTE: While the use of interfunds is legally permissible, and when used properly can be an excellent budgeting tool, our financial woes were too great to continue taking these risks.
- Instituted a hiring and promotion freeze.
- All part-time/seasonal/temporary employees did not receive any increase in their salaries for the current year, unless statutorily required.
- Elimination of all non-essential overtime.
- Elimination of overnight stays and meal allowances associated with meeting/conferences and conventions.
- Elimination of all non-essential capital projects/purchases requested for 2009.
- Total restructuring of Finance department to ensure proper oversight while allowing separation of duties.
- Restructuring/realignment of staff in order to operate in a more effective and efficient manner.
- Sought approval from the Department of Community Affairs to create a “trust” account dedicated to snow/ice control services.
 - This would allow any unexpended funds dedicated for snow removal to be rolled over from one year to the next. Any funds that we saved we would not have to raise in the following years budget.

Even with the above-referenced actions, we would be faced with a harsh reality which could only be addressed in a few ways. First, would be to keep mentality of “operating as usual” since “this is the way we always did it.” This is a very dangerous statement and not a path that I was willing to take. Second, we had the ability to seek approval from the State to raise taxes above the 4% CAP. Again, this was not a choice that I felt should be followed. Finally, was the option of applying for Extraordinary Aid from the State, which is the path we chose to follow.

Through the hard work of elected officials, staff and professionals, we were successful in receiving \$550,000 in Extraordinary Aid from the State, which had a significant impact on our 2009 budget. Specifically, it reduced our overall budget to a point where we no longer had to seek a levy CAP waiver from the State, as well as reducing the local property tax bill.

Unfortunately, even with budget reductions, procedural changes and Extraordinary State Aid, we were still facing severe financial problems. Declining revenue (IE: Interest on Investments, Municipal Court Fines, Zoning permits, and the like), reduction in standard State Aid and increases statutory obligations (IE: Pension, Health Insurance) left the Borough in a very precarious position. As a result of the, the Borough was forced to make some unpopular decisions relating to both staffing and service levels, to which I will explain in greater detail in the latter part of this report.

MAJOR INITIATIVES AND ACCOMPLISHMENTS IN 2009

Shared Services Agreement for Police Services with Washington Township

- This process started in 2008 and went into effect on August 1, 2009. The end result was that the Township of Washington became the sole provider of law enforcement services to the Borough. The concept of entering into agreements of this type are now being followed and/or studied in other municipalities in the State.
- In the remaining five (5) months of 2009, our monthly cost to the Township was \$120,416.66/month instead of the \$140,166.66 it should have been. This was due to the fact that the Township bought \$98,760 worth of Borough assets, of which the cost was deducted equally between the 2009 payments.
- Total Savings - \$243,722.64 in 2009.
 - NOTE: The above savings includes future saving we reaped by the State paying for the unused sick time of the former Borough Police Officers via the S.H.A.R.E. Grant, which equated to \$93,959.72

Miscellaneous

- 2009 Budget hardships
 - Poor cash flow. Bills are coming in quicker than the funds needed to pay them were. This is due to the fact that all remaining surplus was used in 2008.

- In 2008 & 2009, the Borough was required to obtain Tax Anticipation Notes (TAN's) from financial lenders. This was nothing more than the Borough receiving their "property tax" revenue in advance of their actual due date in order to assist with the cash flow problem.
 - Both principal and interest payments is required to be paid back in the following year.
- Increase in debt payments.
 - In 2008, our annual debt payment was just under \$400,000 per year. This jumped to over \$600,000 in 2009, and is expected to rise for the next eleven (11) years as principle and interest payments mature
 - NOTE: Graphs depicting current/future debt payments can be viewed on the Borough's website: <http://www.washingtonboro-nj.org/financial-documents.html>
- The funds that were authorized to be borrowed for the purchase of the replacement fire truck were borrowed in 2009 prior to delivery of the new vehicle. As a result, the Borough's debt increased by \$475,000 in 2009.
- For 2010 (and beyond) – due to the large amount of previously incurred debt, we are looking at annual debt payments increasing each year from now through 2022. This only accounts for current debt, NOT anything that we borrow for from now on. Our biggest financial problem is our debt-ratio, not current spending levels
- It was discovered that Sewer Utility had ran at a deficit in 2008, and in order to overcome this shortfall and ensure that this does not happen in the future would need to consider increasing sewer fees in the very near future. This was due in part to the fact that when the Sewer Utility came "online" in 2000, wastewater consultants and engineers advised the Borough that they should revisit the sewer fees and make adjustments every three (3) to five (5) years in order to account for current and future debt obligations, but this was never done.
 - NOTE: It was not until February 2010 that corrective action was taken by the Borough Council.
- Internal staff re-allocation and financial procedural changes
 - There were internal staffing changes that required staff from one department to be relocated to another. In this instance, staff was moved to the Finance Department as this department had the most need for corrective actions to occur.
 - Physically cleaning and reorganizing of Finance office was conducted in order to keep better track of financial transactions.
 - Rigid financial procedures were implemented to account for previous lax procedures.
 - Employee accountability was in full effect and employee work responsibilities were changed.
 - Greater separation of duties was created to ensure that there were proper "checks and balances."
 - Monthly bank account reconciliation.
 - As the Borough's finance system was improperly setup during its inception in 2008, the current Chief Financial Officer has spent countless hours going back and correcting what should have been done properly initially.
 - Mandatory usage of the Borough's finance software to its fullest capability.
- Updated Purchasing Manual and Purchasing Training Classes
 - In June of 2009, the Borough purchasing manual, which was severely outdated, was updated to reflect current laws and policies. Unbeknownst to me at the time, this would be one of the corrective action recommendations that would be stated in the audit conducted by the Office of the State Comptroller.
 - Multiple training sessions were scheduled and attendance by employees was mandatory and option by the Borough Council. The training sessions focused on clarifying all of the new policies and procedures, as well as educate everyone in the complex world of public purchasing.
- Audit Report from the Office of the State Comptroller
 - Prior to my employment with the Borough, the Office of the State Comptroller conducted an audit of Borough operations. This audit mainly focused on the financial shortcomings of the Borough. The final report listed several concerns as it relates to purchasing and contract management. To name a few, lack of compliance with the both Local Public Contracts Laws & Pay-2-Play Laws, as well as poor financial/purchasing oversight. Many of the items cited were in direct violation of the law, but all of the errors were corrected with minimal effort on our part. In fact, I had implemented several of their

suggestions, even before I knew we were in violation, and have been in the process of making further changes.

- The Comptrollers report and the Borough's Corrective Action Plan can be viewed on the State's website at <http://www.state.nj.us/comptroller/news/index.html>.
- Subsequent to their report being published, the Office of the State Comptroller requested the Borough provide them with a "Corrective Action Plan" addressing all of their comments in their audit. I am pleased to say that all of their concerns were addressed and are being enforced by my Office. Furthermore, the Office of the State Comptroller called to thank us for the work we put forward in generating a corrective action plan, as well as actually putting those actions in motion.

- Creation of a Snow Ice Control Services Trust Fund

- This created a budget account dedicated solely to snow and ice control services.
- Since these funds can not be used on anything besides snow and ice control service, any balance in this account would be rolled over to the next year.
 - EXAMPLE – We budget \$40,000 from snow and ice control services in 2009, and there is a mild winter which we only use \$10,000. In the following year, we would already have a balance of \$30,000. As a result, we would not need to raise the full amount in taxes the next year in order to have sufficient funds available.
 - This accounting practice is very effective and will benefit the Borough in years to come.

- Extraordinary State Aid

- In order to assist with the severe budget shortfalls in 2009, the Borough applied for and received \$550,000 in Extraordinary State Aid. This money was used to directly reduce the tax rate within the municipality by 15.5 cents/\$100 of assessed value.

- 2008 Audit

- Each year, all municipalities are required to conduct an annual audit by a Registered Municipal Auditor. This audit identifies financial-related issues that can have an adverse effect on the municipal budget process, as well as lax financial oversight procedures. The final audit must be approved by the Borough Council via resolution. The 2008 Audit (Completed in 2009) identified following items:
 - Grant account balances – we have spent more than we received and not all grants were inserted as revenue properly (IE: Chapter 159 Resolutions).
 - Over-expenditures in many budget accounts.
 - Financial data was not transferred from the old finance system (First Byte) to the current finance system (Edmunds) properly. As a result, financial data was incomplete.
 - The Finance department is behind in their workload and did not properly monitor the Boroughs finances.
 - The general ledger was not up to date and the items referenced were not properly reconciled.
 - There was one contract that was over the bid threshold that was not awarded in accordance with Pay-2-Play requirements.
 - The bid for the fire truck was too specific to one vendor and was not drafted in compliance with the Local Public Contracts Law.
 - Purchases were made before the user department had an approved purchase order.
 - General fixed asset list was not being maintained in the new finance system, and was incomplete.
- I am pleased to say that the items listed above have been addressed and corrected. As a result, the Borough operations are now running more effectively and efficiently than ever before. We are now compliant with all State and Local Financial/Purchasing regulations.
 - NOTE: Many of the items above were also addressed by the Office of the State Comptroller in their report, and have also been corrected.

- Transfer Resolutions

- All municipalities are permitted by law to transfer funds from one current account to another during the last two (2) months of a budget year to account for any internal departmental shortfalls and to ensure that the budget is properly balanced. Prior to my employment with the Borough, these legal transactions were not done at all, or when they were done, were done improperly. State requirements dictate that the

amount of money must be properly moved in order to keep track of the funds. Once I began to research previous transfer resolutions, I discovered the following:

- In the past, if a department was short of funds (IE: \$1,000), former CFO's would find another account with an extra \$1,000 just to transfer money to the department that needed it. This is not considered good accounting practices. The point of a transfer resolution is to properly balance all of the budget accounts at once, not piece-meal as was the case.
- If a departmental account was running short of funds, rather than transferring funds properly via resolution, the incorrect accounts were charged. Example – If department “A” needed \$500 for printing and they had no money left, it would be charged to department “B” instead. This is bad accounting practices as there is no way to accurately keep track of all of your departmental expenditures.
- A transfer resolution is supposed to take available funds from accounts and places them into a “temporary” account after the Borough Council approves the transfer. Then, the finance system moves the funds from this “temporary” account to the accounts where they are needed.
- This budgeting tool allows proper oversight of departmental funds while allowing a proper expenditure record to be created. Long story short – good financial record-keeping today makes future budget processes easier.

- Payment to Professionals

- The practice of giving professionals “free reign” in submitting invoices for payment stopped when I began my employment in 2009. In the past, invoices were routinely paid for work that was not authorized and/or financially accounted for.
- All invoices for professional services are thoroughly reviewed before they are even placed on the bill list to be approved for payment by the Borough Council. This review includes, but is not limited to the following:
 - Was the professional authorized to do the work they have billed for? If so, has the work they billed for actually been completed in accordance with their Scope of Services?
 - For work that falls above and beyond the base level of services, was an updated Scope of Services provided outlining the work? If so, was a resolution adopted to memorialize the Borough Council's approval of said work?
- In 2009, my Office withheld approximately \$35,000 in invoices submitted by professionals as the work they were billing for was not authorized, nor were the funds allocated. Additionally, the Borough's Purchasing Manual adopted by the Borough Council now mandates the same.

- Personnel

- Gary Masenior was hired in March of 2009 as the part time Director of Recreation.
- After many years of having lax or no continuity in the position of Chief Financial Officer (CFO), Natasha Turchan was hired in this position on a part-time basis.
 - Natasha has begun the grueling task of fixing a department that has been mismanaged for years from the ground up. I am pleased to say that she has made tremendous strides in resolving these problems, as well as providing both short and long term changes.
 - CFO History
 - In 2008, the Tax Collector was also the CFO. She stepped down from this position prior to my employment with the Borough.
 - When I began my employment, there was a part-time CFO working 1 day/week, who left the Borough in May of 2009.
 - After interviewing new candidates, the position was accepted by someone else, who quit after his first day of employment. His reason for his quick departure was that the Borough “will not be able to fix their problems with a part time CFO. You need a full-time person.”
 - The search continued, to which a new part-time CFO was hired. While extremely qualified, in July he left as he was offered full time employment with another municipality.

- In September of 2009, we hired our current CFO. Even though we hired her on a part-time basis, she has put in full-time hours and is committed to getting our financial house in order.
- Creation of annual employee evaluations
 - All employees are now required to undergo an annual performance evaluation, which was never done in the past.
 - This establishes annual goals and employee accountability.
- Reduction in Force
 - The Borough was forced to reduce its workforce in 2009 by laying off three (3) part time employees and one (1) full time employee in order to help make up for the budget shortfall in 2009.
 - Due to part of this reduction, the Municipal Library was forced to reduce their operating hours to 35 hours/week down from 53.5 hours/week.

Borough Projects

- DPW Garage Project
 - It is no secret that the DPW Garage project, which has been going on for over 10 years, and until recently has been mismanaged at all levels. When my employment with the Borough began in March of 2009, the construction phase of the project was already well underway, albeit very slowly.
 - After many months of working with a contractor (Consolidated Building Corporation) who was not looking out for the Borough's interests, the Borough Council, after the recommendation from my Office, declared the contractor in default of the terms of their contract and removed from the job site.
 - Subsequently, the Insurance Company that held the Performance Bond on the project reviewed the documentation that the Borough had compiled to justify our actions. In January of 2010, the Insurance Company declared that our actions were just and we acted properly in throwing the contractor off the job.
 - Since January, the Borough has been in negotiation with the Insurance Company trying to work out all of the details with them in order to move the project forward again and get the construction completed. In my opinion, in the world of government construction, the quality of the Insurance company is usually dictated by the quality of the winning contractor. Meaning – if the winning contractor is of poor quality, they tend to hire an Insurance company of the same caliber. As a result, negotiations have been slow and relatively unproductive. As recently as March of 2010, correspondence has been sent to the Insurance company demanding progress be made. When updates occur, they will be posted on the Borough website for public information.
- Borough Hall HVAC Upgrade Project (Phase 1)
 - Prior to my employment with the Borough, it was decided that the main Air Conditioning Chiller that cools the entire municipal building needed to be replaced as it was approaching (forty) 40 years old. The old chiller was removed and the new one has been installed.
 - As funds allow, the second phase of the project, which includes the replacement of the air handlers in the ceilings will move forward.
- Downtown Streetscape Project
 - Over the past several years, the Downtown Streetscape Project was ongoing. This work included, but was not limited to the installation of a mid-street crosswalk near the entrance to the Municipal Parking Lot on Rt. 57. The vast majority of this project was funded through a New Jersey Department of Transportation Grant Program, to which we will be receiving the final reimbursement from the State in 2010.
- Downtown Parking Lot and Pocket Park Project
 - As a result of a public/private partnership with the Business Improvement District (BID), the main Borough parking lot downtown was paved, striped and lighted. As a result, one hundred and twenty-two (122) parking spaces were created.

- The BID obtained financing to pay for the project and will retain ownership for five (5) years. At the end of five (5) years, the Borough will become the owner of the property and be responsible for the outstanding principal and interest payment on the BID loan that was used to pay for the project.
 - On September 29, 2009, it was recommended to the Borough Council earmark the balance of a donation made to the Borough to cover our financial obligation on the parking lot in the future. The funds in question will cover nearly all of our future financial obligations associated with this project.
 - The Borough and BID are trying to move forward with a second phase of the project, which is the creation of a small “pocket park” adjoining the parking lot. Should this be feasible, the outcome would be in compliance with the Borough’s Redevelopment Plan.
- Purchase of a new Fire Truck and Fire Department Garage Expansion
 - In 2008, the Borough Council authorized the purchase of a new fire truck to replace an aging one. This truck was paid for in part with a grant from the Federal Emergency Management Agency (FEMA) and the balance was paid by the Borough.
 - In 2009, the completed truck was delivered to the Borough and officially made part of the Fire Departments fleet of apparatus.
 - As this truck was physically longer than the truck it was replacing, the garage in the Fire Department needed to be expanded in order to house the vehicle. As a result of work between local contractors, Borough DPW employees and the Fire Department, all of the work was completed prior to the delivery of the new truck.
 - NOTE: Since the Fire Department and DPW assisted with the work, significant savings was realized as we did not need to contract out the entire project.
- Illicit Connection Inspections
 - In 2008, Veolia Water was contracted to conduct inspection of approximately 80 homes that may have illegally been connected to the Borough’s sewer system.
 - When this occurs, it puts an undue burden on the waste water treatment process, and in turn increases costs to treat waste water.
 - All of the homes with these connections have made the necessary repairs and are no longer connected to our system, which will save the Borough money in future years.
- Council on Affordable Housing (COAH) – 3rd Round Obligations
 - As part of the mandatory COAH participation dictated by the State, the Borough was required to perform a study to show that we are meeting all of the State guidelines for affordable housing. In 2009, the Planning firm of Heyer, Gruel & Associates was contracted to complete this study.
 - After many months, the Borough was please to be informed that we not only met, but exceeded all of the State requirements. As a result the Borough will not be responsible for expending any funds to be compliant with State regulations.

In summation, 2009 was a challenging year to say the least. Past bad practices and lax oversight riddled my Office with constant hurdles. Combine this with reduced assistance from the State and the bad local and national economy, and it became an even greater challenge for us to overcome. Be that as it may, the short and long term changes indicated in this report will benefit the Borough in the future many times over. For future years, my goal is to continue focusing on taking continued corrective action and create a strong foundation where a shaky one had previously existed, with the limited tools at my disposal, as well as trying to improve the quality of life for all Borough residents and businesses. I am confident that if all parties work together, this can be achieved.