

**Testimony of DRPA Commissioner and
International Brotherhood of Electrical Workers
Local 98 Business Manager John J. Dougherty**

**PA Senate Transportation Committee Hearing
Wednesday, September 22, 2010**

I would first like to thank Senator Rafferty and all the members of the Pennsylvania State Senate Transportation Committee for affording me the opportunity to testify at today's important hearing regarding the operations of the Delaware River Port Authority. My name is John J. Dougherty, Pennsylvania Commissioner of the Delaware River Port Authority (DRPA) and Business Manager of the International Brotherhood of Electrical Workers Local 98.

I have been perhaps the longest and loudest critic of the DRPA, especially of the recurring mismanagement and lax oversight exhibited by the current leadership of the Authority. For years – not months – I have been asking questions of and seeking information from DRPA management and have been repeatedly stonewalled. Only when subjected to the white-hot glare of the media spotlight over the past several months did DRPA management begin to respond to some of the questions for which Pennsylvania and New Jersey toll-payers deserve answers. Pressure from the media also revealed the current DRPA management's penchant for playing semantics, hiding behind a veil of attorney-client privilege, and responding in half-truths, when they respond at all.

My frustrations with DRPA management reached a boiling point in early July of this year. There is a long litany of troubling issues at the DRPA that began with Chief Counsel Dick Brown. He had promised for months to provide me with a copy of the DRPA Management Report. Although I still had not received the document from Brown after numerous requests, he somehow managed to produce a copy of the Management Report for an NJN investigative news reporter. That was but one failure of the DRPA's top attorney. Similarly, I asked both Brown and CEO John Matheussen about the existence of a DRPA Ethics Policy. They stonewalled the request until such time that a reporter confirmed the existence of just such an Ethics Policy, first drafted in 2003. Not surprisingly, I finally received a copy of the report on the next business day.

Had I and the other Commissioners known about the Ethics Policy and had implemented it five or six years ago, there's a chance the DRPA could have avoided some of its recent ethical lapses and public embarrassments. It's clear to me that there was no appetite among this current DRPA management team to implement the enhanced ethics measures outlined in the report because they're content with the status quo. Their failure to even inform the Commissioners about the existence of the Ethics Policy underscores why this management team must be replaced. On numerous occasions, I requested information from Dick Brown about the Human Resources Department of the DRPA, specifically the policies and procedures the

department uses in hiring new employees, including their place of residence, their position and commensurate salary, who hired them and when, and the length of time the job was posted. I also asked for any written policies, procedures, board minutes, inter-office memos, or other documents regarding the hiring practices and testing process of applicants for DRPA positions. It was months before I received some – but not all – of this information.

On another early issue, we DRPA Commissioners were told that Chief Vincent Borelli retired early under duress from his position as head of the DRPA Police Department because he was featuring DRPA vendors as guests on his radio show. CEO John Matheussen further inferred that criminal charges against Borelli were imminent. I later learned that Matheussen himself routinely appeared on Borelli's show. That is an indefensible double standard. I asked Dick Brown for copies of all correspondence between the DRPA and Borelli from the outset of the investigation until present. I am still waiting for that correspondence. Approximately eight months after Borelli was gone, Matheussen informed us that no charges were ever brought against Borelli.

Likewise, I asked for answers on who provided information and opinions to the authors of the Kroll Report – a toll-payer subsidized assessment of the DRPA's Homeland Security and Emergency Response preparedness that I believe was orchestrated to attack Borelli's credibility. If Borelli's successor, Mike Joyce - who resigned the Authority in disgrace – was a source of information, then the credibility of the entire Kroll Report must be called into question. I never received an answer to the question.

The DRPA recently posted a job opening for an experienced grant writer. I understand that qualified DRPA employees applied for the position. It's my understanding that the DRPA opted to completely rewrite the original job posting to favor a politically connected New Jersey woman with no grant-writing experience whatsoever. In the illogical, politically wired world of the DRPA, she was awarded the contract, which included a salary greater than that originally posted for the position. Meanwhile, qualified, loyal DRPA employees were passed over and toll-payers from both sides of the Delaware were left to pay the new hire's inflated salary.

My repeated requests for information on the termination of former DRPA Corporate Secretary John Lawless are well-documented. His termination and immediate police escort from the building – which the board was not informed of - seemed heavy-handed, especially in light of possible HIPPA violations by the DRPA against Lawless, which I warned DRPA management about in a Pennsylvania Caucus Session. At that time, there were persistent allegations that Lawless' E-ZPass was being used by someone else in the building.

After pressure from me and certain media outlets for the truth, the then-Director of Public Safety, Mike Joyce, admitted to taking Lawless' E-ZPass for his daughter's use. CEO Matheussen's disciplinary action of the Authority's top cop - a three-day suspension and restitution of a few hundred dollars in purloined toll money - was widely criticized by me and the media for being so lenient. The DRPA prosecuted others for less. Joyce eventually resigned in disgrace. I find it hard to believe that no one inside

the DRPA knew about Mike Joyce's larceny until it was exposed in the press. I have asked for a complete vetting of the Joyce situation, given that there are so many unanswered questions in this case, including why Joyce continued to draw a DRPA salary for weeks after he resigned.

Similarly, I had asked Matheussen on more than one occasion about allegations that another DRPA employee was caught stealing petty cash and was either terminated or suspended. I further heard allegations that, because the individual in question was politically connected, he was immediately rehired by the DRPA in another position. Twice in letters to me, Matheussen stated that these allegations had "no basis in fact." The press eventually investigated the story, corroborated the allegation, and reported it. It's difficult for me to believe that Matheussen was unaware of the incident.

Matheussen also assured me and my fellow Pennsylvania Commissioners last summer that there would be no salary increases for DRPA directors in consideration of the ongoing economic recession, yet he permitted Dick Brown to roll his \$9,000 annual car allowance into his salary, thereby increasing his DRPA pension. He also gave exorbitant raises in December 2008 to three politically-active female staffers from New Jersey. He later pyramided their raises with COLA increases early in 2009. The concept of fiduciary responsibility is lost on DRPA management. Playing politics with toll-payer money is nothing new for the DRPA.

I asked Matheussen for an accounting of which managers and employees used DRPA pool cars and how often they did so. His initial response about the number of times he used pool cars was "None." He later hedged when the media pressed him for the truth and changed his story to "Once or twice." Once again, his answers were disingenuous, at best, and intentionally misleading, at worst.

I asked more than once for a copy of the Philadelphia Police report and the DRPA Police report on the tragic death of DRPA Police Officer Christopher Milito, a good man whom I met on many occasions. I have serious questions about that evening's DRPA police detail, assignments, staffing, etc. I have received no information from the DRPA, which once again cited attorney-client privilege as the reason for withholding the reports, despite the fact that I asked for the reports before any litigation was initiated.

One of the most troublesome issues to occur during Matheussen's tenure is the so-called "True Up" arrangement between insurance brokers Graham, from PA, and Willis, from NJ. As has been his way, Matheussen at first denied any knowledge of the particulars of this commission-sharing arrangement, regardless of which insurer performed the lion's share of the work. As media scrutiny increased, Matheussen attempted to shirk responsibility by saying the deal was brokered by the Ballard Spahr law firm prior to his DRPA tenure. Meanwhile, I have for some time been in possession of email documents on which John Matheussen is personally copied (attached) that discuss the specific financial details of the "True Up" commission deal between Graham and Willis. In my estimation, this paper trail is clear and compelling evidence that Matheussen lied to the Commissioners and the media about his knowledge of this "True

Up” arrangement, which I believe is unethical if not illegal. I also asked for a legal opinion to that effect from the DRPA, but never received it.

Most recently, the DRPA Commissioners learned (only in Executive Session) of the Authority’s hiring of a prominent criminal defense attorney, ostensibly to deal with investigations by one or more government agencies. The board was never consulted and only learned of the hiring of the attorney after five weeks and two board meetings had passed. When I asked Matheussen whose decision it was to hire the criminal defense attorney, he curtly responded “Mine.”

Despite how John Matheussen, Dick Brown and other DRPA officials may feel about my hard line of questioning, I have sought the truth because I care about the port. My family emigrated from Ireland and made their home and their livelihood on Philadelphia's waterfront. I was at the forefront of the efforts to secure dredging and the Southport project. Of the many boards I have served on over the years, I have never taken a dime for myself. I serve on the DRPA and other boards because I care deeply about the future of our region.

I have raised many other serious concerns about DRPA partisanship, leadership, the imbalance in the employment opportunities between New Jersey and Pennsylvania residents, and the overall direction of the Authority, including the lack of transparency in too many facets of its operations. In addition to the open issues I detailed previously, there are other questions that need to be answered:

- ✓ What is the outside employment policy that allowed Mike Joyce, for example, to hold a job outside of his DRPA position?
- ✓ What is the percentage of NJ vs. PA jobs at the DRPA?
- ✓ How did the Inquirer's Monica Yant-Kinney obtain a confidential personnel file?
- ✓ Why isn't there disclosure on which firms received DRPA contracts under \$100,000 and which board members or their family members have an interest in these contracts?
- ✓ Why are people still getting hired despite the supposed hiring freeze?
- ✓ Why hasn't there been disclosure on which law firms and lobbyists have received contracts to implement the DRPA's reform agenda?

The toll-paying public's confidence in the integrity and accountability of John Matheussen and the DRPA management team has been completely eroded. The only chance the DRPA has of restoring the public's trust is by removing Matheussen and replacing him with a qualified port operation professional. I also support a revisiting of the federal compact under which the DRPA operates for the possible restructuring of all regional port operations under one guiding entity. Until such time that a change in DRPA leadership occurs and the myriad ethical questions are resolved, I cannot in good conscience support the proposed bridge toll increase to \$5 or the cuts to senior citizen discount programs, especially in the midst of this lingering national recession. The toll-payers of Pennsylvania and New Jersey deserve better.