

**TOWNSHIP OF EGG HARBOR
SPECIAL PLANNING BOARD MEETING**

February 22, 2016

Planning Board Professional(s):

Solicitor: Christopher Brown, Esq.: (Not in Attendance)

Engineer: James A. Mott, P.E., of Mott Associates: (Not in Attendance)

Planner: Vincent Polistina, P.P., of Polistina and Associates: (Not in Attendance)

Planning Board Deannexation Professional(s):

Special Counsel: Dean R. Marcolongo, Esq. (present)

Special Planner: Stuart B. Wiser, P.P., A.I.C.P., Remington, Vernick & Walberg Engineers (present)

A special meeting of the Planning Board of Egg Harbor Township was held on the above date, 5:00 p.m., prevailing time, Egg Harbor Township Hall, Egg Harbor Township, New Jersey. The Chairperson opened the meeting by reading the statement in compliance with the Open Public Meetings Act.

Roll Call Taken as follow(s):

Manuel E. Aponte, V-Chair., arr. @7:00 p.m.

Charles Eykyn, present

James Garth, Sr., Chairperson, on vacation

Frank Kearns, present

Dennis Kleiner, Alt. #1, another engage.

Robert Levy, another engage.

Mayor James J. McCullough, Jr., * See below

Peter Miller, Township Administrator, ill/recused

Committeewoman, Laura Pfrommer, present

Daniel Pittaro, Alt. #II, present left @ 7:00 p.m.

Paul Rosenberg, 2nd V-Chairperson, another engage.

May the record reflect: Mayor McCullough opened in the meeting in the absence of Chairman Garth, the expected delayed arrival of V-Chairman Aponte, and the additional absence of 2nd V-Chairman Rosenberg.

Both Mayor McCullough and Board Member Pittaro were present for the opening of meeting and the executive session. Once the executive session end, the board entered into regular session matters both Mayor McCullough whom is recused from the deannexation matter and Board Member Pittaro whom is excused from the deannexation matter left for the evening (7:00 p.m.)

***May the record reflect:** Mayor James J. McCullough has recused himself from these hearings. He has sent Atlantic County Freeholder, John Carman, in his place, who arrived at 7:00 p.m.

ADMINISTRATIVE MATTER(S):

Mayor McCullough asked the purpose of this close session is litigation. Board Secretary Wilbet advised this is correct it is further discussion concerning litigation regard Black Horse Auto. The Mayor asked for a motion to go into executive session.

MOTION Pfrommer/Pittaro TO ADJOURN TO EXECUTIVE SESSION. VOTE 5 yes: Eykyn, Kearns, McCullough, Pfrommer, Pittaro.

Mayor McCullough stated so the public understands the Board is going into close session and any decision will be announced publically. He advised the Board is now adjourning into the Mayor's Conference Room.

MOTION Eykyn/Kearns TO RECONVENE THE PUBLIC MEETING AT 7:00 P.M. VOTE 5 yes: Eykyn, Kearns, McCullough, Pfrommer, Pittaro.

Mayor McCullough asked for a motion concerning the decision to withdraw the pending litigation with Black Horse Auto.

MOTION Eykyn/Pittaro TO INSTRUCT TOWNSHIP SOLICITOR, MARC FRIEDMAN TO WITHDRAW THE PENDING LITIGATION WITH BLACK HORSE AUTO. VOTE 5 yes: Eykyn, Kearns, McCullough, Pfrommer, Pittaro

May the record reflect: as previously noted Mayor McCullough and Board Member Pittaro has left the meeting @ 7:02 P.M.

May the record reflect: Vice-Chairman Aponte will now proceed over the remainder of the meeting and Freeholder Carman is also now in attendance.

Vice-Chairman Aponte for the record established all the members present on the dais: Mr. Eykyn, Mr. Kearns, Mr. Carman, Township Committeewoman Pfrommer, and himself.

Vice-Chairman Aponte also announced they will be taking breaks where needed and if it is announced they will be five (5) to ten (10) minutes they will only be that time. No going over.

OTHER MATTER(S):

May the record reflect: Board Secretary Wilbert advised no action is required concerning the motion listed under other matters for setting a Special Meeting for March 7, 2016. She indicated this date is no longer being considered. Vice-Chairman Aponte asked if this is due to conflicts of schedules. Board Secretary Wilbert advised this is correct.

1. **Motion / to schedule special meeting of the Planning Board for Monday, March 7, 2016, 5:00p.m., prevailing time.**

CONTINUATION OF PUBLIC HEARING(S):

1. **Public Hearing:** Deannexation petition submitted by the Seaview Harbor section of Egg Harbor Township seeking annexation with Longport Borough.

Special Board Solicitor Marcolongo advised Mr. Wiser is the Boards witness tonight. He advised Mr. Wiser is the professional planner that the Board hired to assist in these proceedings. He noted he is sure all of the members have received Special Board Planner Wiser's report and findings and he anticipates Special Board Planner Wiser will be providing a presentation tonight where he will be highlighting, expanding or summarizing his report.

Special Board Solicitor Marcolongo stated before he does so he would like to discuss one housekeeping item. He indicated as he has explained to the Board on a number of occasions under the deannexation

statute after a petition for a deannexation is received it is referred to the Planning Board and the Planning Board is to report back to the Governing Body on the impact deannexation will occur. Special Board Solicitor Marcolongo stated this impact should focus on both how it will impact upon on Seaview Harbor residents and how it will impact the remainder of Egg Harbor Township. Again, the focus is on the impact.

Special Board Solicitor Marcolongo advised he has noted within Special Board Planner Wiser report, especially, section 2.1 that Special Board Planner Wiser has raised some very interesting arguments, as to whether the petition signed by the residents, is procedurally defective and whether deannexation cannot occur as a result of the issue of being contiguous. He indicated he has had an opportunity to review that issue with Attorney Doyle and Special Board Planner Wiser and we agree that this is a jurisdictional issue. That is one that should be dealt with by the Township Committee and not by the Planning Board.

Special Board Solicitor Marcolongo stated the Planning Board's duty is to evaluate the impact of the deannexation and if you are incline to make certain recommendations regarding that, however, whether deannexation is procedurally appropriate is more the job of the Township Committee. He indicated to that end based upon his conversations with Attorney Doyle he had Special Board Planner Wiser revise his presentation to them tonight and not to address section 2.1 issues of the appropriateness of the petition and contiguous. He indicated in a way it is a good thing. It will reduce the presentation here tonight and topics that you are going to need to address.

Attorney Doyle stated he would like to be heard on the procedural matter. He stated he appreciates Special Board Solicitor Marcolongo's determination and he address this with him in a call that he initiated on Tuesday and we spoke again on Friday and he spoke with me today. Attorney Doyle state he raised the point so that it could be put full context on the record. He advised there may be one remaining point that we may want to address. Maybe not addressed but clarified on the record.

Attorney Doyle stated they had submitted the petition on February 18th and the Township Committee went into executive session on February 26th on a matter of Litigation with Seaview Harbor when there was no litigation pending. He indicated two (2) years later we have not received, despite repeated request, the executive minutes. Attorney Doyle stated the next day on February 27th the Municipal Clerk sent the petition to the Planning Board to do the impact report that was just mentioned.

Attorney Doyle stated that impact report was referred too and is S2 in evidence. Attorney Doyle then referred to the Planning Board minutes of March 31, 2014, specifically page #5, it will note that Board Solicitor Marcolongo added for the record S1 is the petition submitted to Township Committee and S2 is the letter from the Township Committee accepting the petition as correct to begin the procedure currently being conducted.

Attorney Doyle stated having kicked this back to Township Committee he is satisfied they do not have the authority now having determined already that it is correct. Having all of us to rely upon that decision for two (2) year(s) worth of hearings that it was correct. To undermine all that has been done by all of us and say oh, no it is a do over. He indicated when he read the report received he was amazed to find this matter was raised now and not much earlier. He indicated it is still open question that does not go to the merits of the arguments, which he believes were made in a legal fashion by a non-lawyer but rather goes to the ethicizes of the timing of it, but that is for another time.

Special Board Solicitor Marcolongo stated he agrees adding neither the Planning Board, Township Committee, or the petitioners in this case are waiving any arguments to those issues that were raised in section 2.1. He stated again that will be addressed later on with the Township Committee.

Special Board Planner Wisner advised he understands Board Member Kearns situation and asked if there is anytime Board Member Kearns needs to break, please advise. Special Board Planner Wisner indicated before he begins he would like to note that Special Board Solicitor Marcolongo had found a typographical error on Page 46, subsection E in its last sentence there is a dollar figure of \$7.55. He indicated it should \$75.52.

Special Board Planner Wisner made a brief introduction advising a Dutchman had discovered an area that may or may not have been covered with bird egg's or may or may not have been shaped as an egg but nonetheless they decided to call it Egg Harbor. He advised over the course of time some portions of Egg Harbor decided they wanted to be their own towns so they split off over the course of time and they became Atlantic City, Ventnor, Margate, Longport, Somers Point, Northfield, Linwood, Pleasantville and maybe some others.

Special Board Planner Wisner stated the remaining portion of Egg Harbor Township may or may not be considered the shore depending upon where you grew up, where you lived and how you marketed yourself. He stated that in the 1950's a real estate developer decided to build a rather unique community with boat slips behind each of the homes but for some reason or no reason decided to claim the development was in Longport or maybe he didn't, or it snowed on a particular day or it didn't, and a gentleman went to get his wife coffee in the middle of the night or he didn't or another gentleman had his picture in the paper saying "the people in this community are underserved and pay too much taxes and should be patrolled by police in Longport" and many other things happened over the course; long stretch of time and he submits that none of that really matters.

Special Board Planner Wisner stated what matters is in February, 2014 the residents of this unique community decided to file a petition seeking permission to leave Egg Harbor Township and become part of the Longport. He indicated this petition was filed with the Township as required by law and it was referred to the Board who is required by law to sit through the facts and make a recommendation to the Township Committee as to whether this deannexation should be allowed.

Special Board Planner Wisner stated much of the back and forth that we have heard over the last 24 months are of no moment to the task of this Board it simply is not relevant. He indicated he believes this has been detailed in the report. He indicated what the Board is being asked to do and what you are charged with by law is to determine. Special Board Planner Wisner then presented an exhibit Board with a copy of the text of the law, which he advised Attorney Doyle placed into evidence as part of Exhibit S1. Special Board Planner Wisner then read onto the record the following from the exhibit board "the petitioners have the burden of proof to establish, by a preponderance of the credible evidence: 1. That refusal to consent to the petition [to deannex] was arbitrary or unreasonable, which he noted is really a court decision. 2. That refusal to consent to the annexation is detrimental to the economic and social wellbeing of a majority of the residents of the affected land; and, 3. That the annexation will not cause a significant injury to the wellbeing of the municipality in which the land is located.

Special Board Planner Wisner stated he is going to leave this information on display so the Board may keep this in mind. He advised there is a case known as the Ryan vs. Demarest case that laid out the type of review that is suggested in the terms of framework for deannexation. He stated in other words it is a

guide for Planning Boards and Governing Bodies in terms of how they are to look at all the evidence such as economic wellbeing and social wellbeing. He stated the economic wellbeing is quantitative it is numbers. He explained social wellbeing is qualitative by definition and values based.

Special Board Planner Wiser presented another exhibit board that presented what he advised the court has suggested that some of the things that should be considered is the contribution of petitioner's participation in religious, civic, cultural, charitable and intellectual activities of the municipality. Their meaningful interaction with other members of the community and their contribution to its prestige and social standing; the part they play in the general scheme of the municipality's social diversity and conceivably, the wholesome effect their presence has on racial integration on the Township, the host municipality.

Special Board Solicitor Marcolongo advised he is not making these two (2) exhibit boards. He noted this has been within the Boards paperwork five (5) or six (6) times. Attorney Doyle stated we have had reports before that had been testified from and the report was put in. Special Board Planner Wiser stated this is a distillation of his report and he will defer to Special Board Solicitor Marcolongo. He advised there is nothing within what he is reading that is not within the report. He indicated this is pulled down, truncated, summarized. Special Board Planner Wiser stated he does not know what is in here that is not already in the report.

Special Board Solicitor Marcolongo advised Attorney Doyle he will have the transcript and the c.d. from tonight. Attorney Doyle stated he would only point out the introduction that referred to things such as the snow storm referring to Mrs. Burns, the gentleman going out for the coffee is no doubt Mr. McGlinchey, the picture endorsement was Mayor McCullough who was not the Mayor at the time making the same complaints that have been made ever sense, which he did not read within the report.

Special Board Solicitor Marcolongo stated Attorney Doyle will be able to read them from the transcript. Board Member Aponte stated Attorney Doyle just provided a distillation of the information. Special Board Planner Wiser stated he was always told to start off with a joke and he was trying to make a joke. He indicated clearly Attorney Doyle got the saline points of it. Board Member Aponte asked Special Board Planner Wiser to continue.

May the record reflect: Special Board Planner Wiser with his testimony is presenting a power point presentation.

Special Board Planner Wiser placed onto the record his qualifications. He advised he is a licensed planner in the State of New Jersey, he also hold the AICP, the American Institute of Certified Planners, certification which is a national certification. He advised he grew up in Margate and currently resides in Egg Harbor Township. Special Board Planner Wiser advised he graduated from Atlantic City High School, he graduated Dickinson College in 1987 with a B.A. degree in Policy and Management Studies, which is now called Policy Analysis concentration in public policy.

Special Board Planner Wiser advised in terms of experience he has been practicing planning at one level or another since 1988. He indicated he started out in the planning and development arm of the Atlantic City Housing Authority and Urban Redevelopment Agency. He indicated from there he moved onto the City of Atlantic City working in a number of titles rising to the Director of Redevelopment and the Chief of Administrative Services, which functioned at the time as somewhat the deputy or an assistant to the

business administrator. Special Board Planner Wiser stated since the end of 2001 to now he is the regional director of Planning and Redevelopment for Remington, Vernick and Walberg.

Special Board Planner Wiser stated in terms of his current appointments he is currently the municipal planner for Absecon, Commercial Township, Margate, Pleasantville Zoning Board, Wildwood, and Robertsville. He is special projects planner for Berkley Township, North Wildwood, Lakewood, East Rutherford and for the deannexation of Egg Harbor Township.

Special Board Planner Wiser stated his previous appointments include the planner of Galloway, Pleasantville and North Wildwood, and special projects planner in Egg Harbor City, the Borough of Halmetta, Sea Isle City, Upper Township, West Cape May, New Port, D.E., and he has done a lot of projects for a lot of other towns.

Special Board Solicitor Marcolongo asked if the Board will accept Special Board Planner Wiser as a professional planner and an expert. Attorney Doyle stated he would like to be heard. Attorney Doyle Stated he noticed the absence of being a special projects planner for Egg Harbor Township. Township Committeewoman Pfrommer stated he had noted this. Attorney Doyle asked if Special Board Planner Wiser ever worked for Egg Harbor Township previously. Special Board Planner Wiser stated he performed the redevelopment work for West Atlantic City around 2007 or 2008. Attorney Doyle asked why it was not listed. Special Board Planner Wiser stated if he listed every project he worked on we would be here a lot long.

Attorney Doyle asked when you did what you did for Egg Harbor Township did you work for a particular entity. Special Board Planner Wiser stated the planning board under the redevelopment statute for a planning board investigation, prepared a redevelopment plan which was reviewed by the planning board and adopted by the governing body.

Board Member Aponte stated he believes Special Board Planner Wiser's qualifications speak for themselves. He then asked if anyone had any objections. Attorney Doyle stated he would reserve any further questioning. He indicated he is a planner.

Special Board Planner Wiser stated over the course of this hearing we have heard testimony from residents of Seaview Harbor, the planning professionals for the petitioners and the financial professional for the petitioners, Township and non-Township residents that were pro-deannexation, the Administrator's for the Township and the Townships Board of Education, the Townships Director of Public Works, the Township Police Chief, the Townships multiple Fire Chief's, Ambulance Director, representative of the Township and Board of Education's auditing firm, a local economist Ph.D with ACCC and Township residents who may be described as opposed to deannexation.

Attorney Doyle advised it appears Township residents who were opposed to deannexation was used in the plural. He indicated it is his recollection that only one (1) citizen showed to say no. Special Board Planner Wiser stated it may have been one but he thought it may be more than one who had concerns but he does not think it is relevant in terms of his comments. Attorney Doyle stated o.k.

Special Board Planner Wiser stated the Seaview Harbor Realignment Committee submitted a petition for deannexation and the Planning Board began the public hearings in March, 2014 and have continued, which by his count is the 27th meeting. He advised there have been 47 witnesses including the professionals. Special Board Planner Wiser advised he went through the posters (exhibit boards

previously mentioned) that speaks to the framework for the deannexation so he will not go through them again.

Special Board Planner Wiser stated he will add in terms of qualitative values base the courts stressed, and it is not on the posters, that these factors are not intended to be all inclusive and in the final analysis local decision makers will have to bring to bear their own knowledge, experience and perceptions in determining what in the context of the deannexation would inflict social injury upon the wellbeing of the community. He indicated while the court laid out a series of things you should look at the court themselves recognize these are not supposed to be all inclusive. He indicated they also recognize these values undergo change over time and are therefore afforded different weight depending on the composition of the community and its governing body.

Special Board Planner Wiser stated in other words. There are somethings you may feel in Egg Harbor Township are more important than some other people in some other part of the State that is facing a deannexation hearing. He indicated in terms of these examples there values base can be weighted differently by different municipalities at different times.

Special Board Planner Wiser stated the board must be satisfied the petition seeking deannexation satisfies these test for the report to be recommended to the governing body. He indicated after hearing all the witnesses for the two (2) years his task is now synthesize what he thinks we heard with the context of the legal standard established by the court. He indicated the board's task is to determine whether the facts in evidence support a finding that refusal to consent to deannexation would be detrimental to economic and social wellbeing of the majority of the residents of Seaview Harbor and deannexation will not cause a significant injury to the wellbeing of the Township.

Special Board Planner Wiser he indicated in terms of issues raised over the course of the hearings by the petitioners. He stated there was an issue of confusion endured by Seaview Harbor residents because of them not being part of Longport. There is social injury, there is public work services, there are emergency services, police, fire, and ambulance/E.M.T., planning/zoning, financial impact and Township responsiveness to the needs of Seaview Harbor and on the flip side of that Township neglect.

Special Board Planner Wiser stated he recognizes many of these subject matters will weave into each other and be duplicative. He indicated what he tried to do was separate them out in headings that made sense to him. The first thing he would like to discuss is address confusion. He advised the petitioners asserted and submitted evidence to support that Seaview Harbor 08403 or otherwise Longport's zip code may indeed cause in confusion and results in certain difficulties when it comes to mail deliveries and other issues.

Special Board Planner Wiser stated we would agree they are facing some measure of difficulty, however, we also think the evidence suggest the use of the proper zip code will result in mail being delivered successfully. He stated we also note outside the context of Egg Harbor Township, Seaview Harbor, and Longport zip codes that do not follow municipal boundaries are not uncommon. He then advised as part of his power point presentation the map that is currently being shown but is better reflected on Page 80 of his report.

Special Board Planner Wiser advised this map shows red and blue lines. He advised the blue lines represent municipalities and red lines represent zip codes. He stated it becomes clear when you look at this that single zip codes can and often do encompass multiple municipalities. He also noted that single

municipalities may also have multiple zip codes. Special Board Planner Wisner stated the testimony and the exhibits taken as a whole do support the petitioner's assertion that there is confusion on the municipality in which Seaview Harbor is located.

Special Board Planner Wisner stated whether or not this confusion is generated by some combination of system error or human error. We believe they likely can be ameliorated, if not cured, by educating local mail carriers and mail sorters as to Seaview Harbor's correct municipality and zip code. He advised if an issue is made to the post master and the post master communicates to the postal employees the problem this issue can be lessened if not totally cured.

Special Board Planner Wisner stated it is recommend this issue of confusion does not rise to the level of "long term, structural, and inherently ameliorable deterrent that the legislator had in mind when it adopted the deannexation statute". He indicated that quote is from the court case known as Avalon Manor, which set the framework for that case and the appellate division affirmed this was a proper decision. He advised with this we believe this takes care of the confusion issue.

Special Board Planner Wisner stated as far as social injury the petitioners assert they face social injury as residents of Egg Harbor Township. He indicated one of the reasons stated is that they do not do their primary food shopping in the Township but instead Margate and Somers Point. He stated we suggest this is not so much due to dissatisfaction in Egg Harbor Township but more likely with the fact that there are no food markets of size, if any at all, in Longport. Special Board Planner Wisner stated the food stores closest to Seaview Harbor are the Acme and Shop Rite in Somers Point or smaller stores convenience stores would be the WaWa and the Cassel's market in Margate. He indicated this is just the way things are. He stated it is not like there are things in Longport that the residents are flocking too in terms of their food shopping. Special Board Planner Wisner further noted the petitioners shopping habits will not change at all should deannexation occur.

Special Board Planner Wisner stated moving on to places of worship. He indicated the petitioners assert social injury as residents of Egg Harbor Township and state they attend church in Longport. He advised there are two (2) churches in Longport. He indicated one is the Roman Catholic Church of the Epiphany and the other is the Episcopalian Church of the Redeemer. He indicated our contention is, it is not that the petitioners have an affinity for worshipping in Longport. It is the petitioners who indicate they worship in Longport are either Catholic or Episcopalian and worship at a church closest to where they live.

Special Board Planner Wisner stated in fact depending upon what religion you are, if you are Jewish. You will not worship in Longport. You would worship in Margate, Ventnor, Northfield, or Atlantic City or elsewhere. He stated if you are Muslim you are going to worship on English Creek Avenue in Egg Harbor Township or Atlantic City. He stated if you are Presbyterians you will worship on Ocean Heights Avenue in Egg Harbor Township, Pleasantville, or Ocean City. He stated if you are Baptist you will worship on either West Jersey Avenue or Ocean Heights Avenue in Egg Harbor Township, Linwood, Northfield, Pleasantville, or Atlantic City. Special Board Planner Wisner stated Methodist would worship on Sion Road in Egg Harbor Township, Northfield, Pleasantville or Ocean City. He advised if you are Greek Orthodox you would worship on Ridge Avenue in Egg Harbor Township or Atlantic City and if are a Hindu there is a temple in Atlantic City, Absecon or Galloway.

Special Board Planner Wisner advised these are just some of the closest places he could find to Seaview Harbor. He indicated while attending church in Longport might be a significant issue for the current

residents of Seaview Harbor, this may not continue as the neighborhood transforms over time. He indicated as different people move into the neighborhood as neighborhood cycles change and they may not be Roman Catholic or Episcopalian. He indicated the issue of social detriment as it relates to places of worship begins to lessen.

Special Board Planner Wiser stated so any adjustment of municipal boundaries may be permanent the impact is only guaranteed to favor the current residents of Seaview Harbor and only those whom are Catholic and Episcopalian residents of Seaview Harbor. He advised it may be of no benefit to anyone else currently or to the future residents. He added as like food shopping the places of worship for the petitioners will not change should deannexation occur.

Special Board Planner Wiser stated continuing with social injury. He advised he spoke of restaurants, social life. He indicated the petitioners assert social injury as residents of Egg Harbor Township because they frequent restaurants in Margate, Somers Point, Atlantic City and elsewhere but not in Egg Harbor Township. He stated it is suggested this may not be so much due to the dissatisfaction for restaurants in Egg Harbor Township. He indicated it is more likely due to the sheer volume and verity of restaurants in outside the Township.

Special Board Planner Wiser stated we know down the old Barbary coast in Margate are a number such as Tomato's, Sophia's and the Greenhouse. He advised Atlantic City has fantastic restaurants and in the Summertime Ocean City has great restaurants. He advised the record does not support the contention that the location of the restaurants presents a social detriment. He stated people eat where it is enjoyable to them and will travel great distances for a good meal. He added Petitioner's dining habits will not change should deannexation occur.

Special Board Planner Wiser stated moving on to social life. He indicated the petitioners assert social injury as residents of Egg Harbor Township stating they normally socialize in Longport and not the Township. However, if you look at the public opinion survey that was submitted they socialize in Margate, Ocean City and Somers Point. He stated it is not just Longport it is an affinity for other towns as well.

Special Board Planner Wiser stated the reason for favoring other municipalities other than the Township were for a variety of reasons, which some were laid out, in the public opinion survey. He stated this included beaches, nightclubs, bicycling opportunities, races and other summer activities. He indicated while Egg Harbor Township can boast of many of these types of offerings, probably not the beach, there are nightclubs that Longport does not have. There are bicycling opportunities, races and summer activities. Special Board Planner Wiser stated while he admits the offering of the shore communities or island communities/ocean front communities are quite famous and renowned.

Special Board Planner Wiser stated with respect to social life and where the petitioners say they spend their time. He stated we find it compelling that Mayor Russo of Longport advised Seaview Harbor residents to begin to socializing in Longport and a statement was made that Mayor Russo felt Seaview Harbor should mingle with residents of Longport in an effort to make their presence know. Special Board Planner Wiser stated clearly if there was a lot of socializing going on between Seaview Harbor and Longport the Mayor would not have made those statements their presence would have been known.

Special Board Planner Wiser stated to us this suggested the level of socializing of Seaview Harbor residents do in Longport may not be as significant as the Board is being asked to believe and again, the petitioners social habits would likely not change should deannexation would occur.

Special Board Planner Wiser went on to discuss medical facilities. He stated the Petitioners assert social injury as residents of the Township stating they use medial facilities in Somers Point and elsewhere, but not in the Township. He indicated the closest hospital to Seaview Harbor is Shore Medical Center, the old Shore Memorial, in Somers Point. He further noted the next closest is Atlantic City Medical Center which is in Atlantic City and then the Atlantic City Medical Center in Galloway Township. He stated medical offices typically are located near hospitals. Special Board Planner Wiser stated it make sense people go and visits their doctors near hospitals and the closets hospitals are in Somers Point and Atlantic City.

Special Board Planner Wiser stated the record does not show that the location of medical offices represents any detriment. He stated we also know the choice of a medical provider is not location-dependent and again as restaurants will travel great distances to see a doctor they are comfortable with. He indicated the ability to access medical services will not change should deannexation occur.

Special Board Planner Wiser stated the petitioners assert social injury as residents of Egg Harbor Township by stating they don't use library, parks, and recreation facilities in the Township. That they use these facilities in Longport and Ocean City and their children participate in sports and recreation programs in Margate and Somers Point, as well as, Egg Harbor Township. Special Board Planner Wiser stated again, we do not believe this demonstrates or supports a contention that the non-Township location of these amenities represents a social detriment. He indicated the reasons favoring municipalities for recreation other than the Township include proximity to Seaview Harbor, as well as, the amenities that are offered in those recreation facilities. Special Board Planner Wiser stated that won't change should deannexation occur.

Special Board Planner Wiser stated In terms of not feeling part of the Township, but feeling as part of Longport. The testimony from longtime Seaview Harbor residents as their feeling part of Longport but not Egg Harbor Township is not credible but we do not think that similar testimony from residents who moved to Seaview Harbor more and who therefore wouldn't have had time to develop the deep ties to either Egg Harbor Township or Longport are credible. He stated they have not been here long enough to develop the type of ties that the older residents of the community would have.

Special Board Planner Wiser stated there was discussion about Seaview Harbor being a shore community and Egg Harbor Township not being a shore community and the love of the shore is what drove people to Seaview Harbor and they don't think of Egg Harbor Township as a seashore community. He indicated this is credible. He stated there is a legitimacy to thinking perhaps the mainland portion of Egg Harbor Township is not water front; not water oriented but while credible we think this becomes motivated by a sentimental attachment to their neighborhood. He stated they love Seaview Harbor, they want to be by their neighborhood and sentimental attachment the courts have ruled is not a valid motivation in the context of municipal deannexation. He advised it is not enough to change the boundaries of a town.

Special Board Planner Wiser stated this same motivation leading petitioners to view Seaview Harbor as unique within the boundary of Egg Harbor Township really is one of the things that the court could point to or that the court did point to in other cases, specifically, Avalon Manor. He stated were the judge

suggested that deannexation would have implications for the Townships social diversity and prestige and social standing. Special Board Planner Wisner stated what he meant by that is the loss of such a sector of the municipality would inflict a significant social injury on the Township and its ability to continue to attract the kinds of residents that have successfully developed Avalon Manor. He indicated if we take out Avalon Manor and put in Seaview Harbor the concept is that Seaview Harbor is unique and just as it is unique for the residents of Seaview Harbor it is unique for the Township as well. He advised so the Township would be losing a unique section of itself if deannexation were to occur.

Special Board Planner Wisner stated we also have an assertion by the residents of Seaview Harbor that they do participate in Township activities. He indicated evidence of the contribution that Seaview Harbor residents have/had on the development and governance of Egg Harbor Township as it transformed itself from a rural to suburban municipality cannot be underestimated.

Special Board Planner Wisner stated to the board that while it is not easy to see on his slide (power point) it is within our report and it notes the participation that Seaview Harbor residence have had in the governance of Egg Harbor Township over the course of time. Board Member Aponte noted this is Page 92. Special Board Planner Wisner stated clearly whether it is the Township Committee, Planning Board, Zoning Board, Economic Development Commission, the Golf Corporation, the Municipal Utilities Authority or the Environmental Commission representatives from Seaview Harbor have made extensive contributions over the course of time to Egg Harbor Township.

Special Board Planner Wisner stated while the current participation may not equal the level of past years Seaview Harbor can still boast of a proud tradition of civic involvement including but not limited to successfully lobbying for public sewer, a traffic light at Route 152 and Hospitality Drive, and having trash pick-up days moved from Wednesdays to Mondays. He indicated these are all things that Seaview Harbor residents successfully did. Special Board Planner Wisner added even this deannexation process we have here today suggest participation in the Townships civic affairs may lead to increased civic involvement in the future.

Special Board Planner Wisner stated moving on to distance to schools. He indicated the petitioners assert social injury because the Township schools are too far from Seaview Harbor. Therefore, necessitating them to send their children to out of school districts. He indicated as a result Seaview Harbor children face a difficult situation because they do live in proximity to their friends and classmates.

Special Board Planner Wisner stated this we feel is regrettable and it's distressing that this situation is occurring but we also believe this must be viewed within the context of the choices made by the impacted families. He indicated one of, if not the most important decisions that parents make is the location where they wish to raise their families. He indicated many factors and trade-off's go into such decisions including, the physical character of the neighborhood, whether or not the neighborhood contains children or is likely to contain children in the future, whether or not the family desires a public or private school education and the quality of the public schools within the municipality and the capture area of the neighborhood.

Attorney Doyle asked what capture means. Special Board Planner Wisner explained this means which neighborhood is assigned to different/particular schools. He stated the choice to live in Seaview Harbor comes with a trade-off. He indicated the exchange for living in a unique waterfront community residents give up proximity to schools.

Special Board Planner Wiser stated the Egg Harbor Township school district does not have a preschool and only has a half day kindergarten. He indicated parents wishing to send their children to preschool or full day kindergarten must find non-Egg Harbor Township schools. He further noted it is predicable that non-Egg Harbor Township friendships made at the preschool/kindergarten will be interrupted when it is time to go to elementary school and the children go their separate ways.

Special Board Planner Wiser stated his next slide (power point) shows a comparison of the school trips. He indicated the time it takes from Seaview Harbor to the Egg Harbor Township schools and the Margate schools. He indicated this was “map quested” it was not based on school bus trips. He noted the time could be a little longer, but clearly we will concur that Township schools are further away from Seaview Harbor than the schools in Margate, Ocean City, and Atlantic City. He stated it is a matter of distance.

Special Board Planner Wiser stated the impact on the younger children spending longer commute times to school is something that must be weighed by each individual family. He stated he is not going to tell the Board whether 25 minutes for an elementary schooler versus seven (7) minutes is too much, for a middle schooler it is too much or 35 minutes for a high schooler is too much. Special Board Planner Wiser stated he knows what he feels for his daughter and this is something as a Board needs to think about in your own decision process.

Special Board Planner Wiser stated we do not believe a 25 minute bus ride to and from school is a trade-off that rises to the level of significant detriment to the social wellbeing of Seaview Harbor. He indicated it is part of a trade-off that you make.

Special Board Planner Wiser stated in concluding in terms of social injury we do not believe the Township has been deprived of the petitioner’s participation in the religious, civic, cultural and intellectual activities of the Township. To the extent the Seaview Harbor residents contribute to the Longport Fire Company, Longport Ambulance Squad and Longport Police Department and not the Townships Fire, Ambulance or Police the Township is being deprived of petitioner’s participation in charitable activities in the municipality.

Special Board Planner Wiser stated we do not believe petitioners are being deprived of the ability to participate in religious, civic, cultural, charitable, and intellectual activities of the Township. He indicated we do note the Township’s residency does prohibit them from voting in Longport’s elections and may prohibited them from participating in certain Borough civic offerings. He indicated we do think the petitioner’s testimony supports their lack of meaningful interaction with other members of the Township community.

Special Board Planner Wiser stated while Seaview Harbor does not exert a wholesome effect on racial integration it does play a part in the Township’s economic diversity. Special Board Planner Wiser indicated this did not come out correctly and he explained it is not that Seaview Harbor reflects an unwholesome effect on racial integration it plays no role at all. He advised Seaview Harbor is a largely caucasian community and the Township on a whole is more diverse than Seaview Harbor. He indicated he does not want this understood.

Special Board Planner Wiser stated an issue for the Board though is whether or not the loss of Seaview Harbor will constitute a loss of intangible enhancements of the Township. He indicated this goes back to the unique quality that we talked about.

Special Board Planner Wisner indicated the fact that the current Seaview Harbor residents attend religious services in Longport appears to be more an accident of denomination as opposed to an inherent defect due to the proximity or the location of Seaview Harbor. He advised currently, Seaview Harbor residents participate in the Township's Governing Body, Planning Board and Economic Development Commission. He indicated while not at the level of prior years, residents desiring to participate could seek appointment if they so desired.

Special Board Planner Wisner stated the contributions Seaview Harbor residents make to Longport emergency responder charities, as discussed, is recognition that Longport is the first responder for Seaview Harbor under mutual aid and not the result of being deprived of the opportunity to contribute to Township based charities.

Special Board Planner Wisner stated Seaview Harbor is an older community that does not contain a large number of school aged children. He indicated any detriment to social wellbeing experienced by the children in Seaview Harbor, if any, would not extend to the entire community. He indicated there are nine (9) families that have children in Seaview Harbor, if he is correct, he stated the standard is that the majority of the residents being impacted.

Special Board Planner Wisner stated even as Board Members decide the community or the distance from schools does create a detriment to social wellbeing. He indicated we do not believe it extends to the entirety of the community. Board Member Eykyn asked if it were nine (9) children or nine (9) families. Special Board Planner Wisner stated it may have been nine (9) children and less than nine (9) families.

Special Board Planner Wisner stated an issue before the Planning Board is whether or not Seaview Harbor's connection with Egg Harbor Township is detrimental to the social wellbeing of the majority of the residents of Seaview Harbor. He indicated his office finds and recommends that certain testimony and exhibits presented by the petitioner's evidences issues that negatively impact their lives. But other testimony and exhibits presented by the petitioner's either bear no connection to Seaview Harbor being part of Egg Harbor Township or represents impacts that would not change should deannexation occur.

Special Board Planner Wisner stated so while the various elements of social detriment presented by the petitioners are within the framework established by Ryan, which again is referenced on the poster board, he indicated we are more likely irritations and inconveniences than rising to the level of long term, structural, and inherently irremediable detriment the legislature had in mind when enacting the Deannexation statute.

Special Board Solicitor Marcolongo stated he would like to mark Special Board Planner Wisner's report as B119. Attorney Doyle stated if it is for evidence he would like to object. He indicated he would like to wait until it is completed and there may be parts of it he may take exception too. Special Board Solicitor Marcolongo stated that is fine. He will place in as B119 for Identification purposes only.

Special Board Planner Wisner stated he would like to discuss public work services. He indicated the petitioners have asserted that Seaview Harbor is not well served or is neglected by the Township's public works department. He indicated the first item is dredging. He advised the petitioners assert that other municipalities dredge, their lagoons, on behalf of their residents and Egg Harbor Township's refusal to dredge Seaview Harbor evidences that these other municipalities possess an understanding of coastal

communities that Egg Harbor Township does not, therefore, Seaview Harbor is neglected by the Township.

Special Board Planner Wisner stated we have in evidence a letter from Margate that Mr. Miller provided that states Margate does not dredge its lagoons. He indicated we also have in evidence an article from Shore News Today.com detailing Ocean City's efforts to dredge its lagoons and bays and we have an excerpt and map that appeared on Avalon's website detailing their dredging project.

Special Board Planner Wisner stated the Shore News Today article does not make clear whether the lagoons in Ocean City that were dredged were owned by the city or by private property owners. He indicated the text of the article suggests that the project was to be on City owned water ways. He noted in which case is not an apples to apples comparison with Seaview Harbor. Special Board Planner Wisner stated the excerpt of the Avalon webpage submitted by the petitioners omits the fact that Avalon dredging project was for navigational channels along the backbay regions of the community. He indicated private boat slips were expressly not included in the project.

Special Board Planner Wisner stated Seaview Harbor's lagoons are privately owned and the map that was submitted by the petitioners, as part of their exhibit, (He then referenced to the slide on his power point presentation) explaining the private lagoons that are part of Avalon have not been dredged or are not part of the project. He indicated it is the main water ways and the channels that appear to be part of the project. He further advised if you look at the entirety of the website that the excerpt was submitted from over and over again Avalon stated we are doing the channels and it is up to you as private property owners to do your slips. He indicated it is something that comes back over and over again.

Special Board Planner Wisner stated Seaview Harbor's lagoons are privately owned by either the residents of Seaview Harbor or Seaview Harbor Marina. He indicated attempting to relate the actions of Ocean City and Avalon to the perceived inactions of the Township does not result in a valid comparison.

Special Board Planner Wisner stated moving on trash and recycling. He indicated trash is collected weekly in both the Township and Longport. He stated in the Township recycling is collected every two (2) weeks. He indicated in Longport recycling is collected every two (2) weeks between September 9 and May 18 and then weekly between May 19 and September 8. He indicated Longport's decision to fund weekly pick-up in the summer is clearly more frequent than the Township's every two (2) week recycling contract with the ACUA and would be more beneficial to Seaview Harbor residents.

Special Board Planner Wisner stated on a similar but different note the ACUA reports voluntary trash/recycling container valet service would be provided to Seaview Harbor if requested, but no request has ever been made.

Special Board Planner Wisner stated the Township's decision to accommodate Seaview Harbor's request to move trash pick-up from Wednesday to Monday does indicate responsiveness on behalf of the Township to Seaview Harbor desires.

Special Board Planner Wisner stated with respect to snow plowing. He advised the petitioners contend there is no snow removal from the marina section of Seaview Harbor. Special Board Planner Wisner stated this does not surprise us. He stated the marina is a commercial operation and as with trash removal municipalities typically require commercial operations to provide their own snow plowing.

Special Board Planner Wiser stated the validity of petitioner's assertions that the Township is not able to clear Seaview Harbor in a timely manner he thinks, depends on ones perception of timely, because no one ever thinks their streets are plowed quickly enough. He further noted Mr. Simerson, the Townships public works director, testified that the Township's priority in snow events is to ensure that primary; high traffic roads are passable for emergency responders and internal streets in residential neighborhoods including those in Seaview Harbor are plowed last.

Special Board Planner Wiser advised Mr. Simerson stated his goal is to have all roads cleared within 24 to 36 hours from the end of a storm. He advised Mr. Simerson submitted a plow log. He indicated when you log the response times in this log to Seaview Harbor appear reasonable when viewed against the specifics of the storms in question. Special Board Planner Wiser stated petitioner's contention that they very seldom see snow removal is not supported by Mr. Simerson's log.

Special Board Planner Wiser stated we heard extensive testimony that there are residents of Seaview Harbor because of their access to heavy equipment plow the snow themselves. He stated we believe Seaview Harbor is fortunate to have access to the marina's heavy equipment, or presumably from the marina or wherever it comes from. Seaview Harbor is fortunate to have access to this type of equipment. He advised because of this access we think it is likely that Seaview Harbor is plowed by private effort before the Township is able to arrive. He stated if this is the case the perception that the Township does not plow the snow is understandable. He advised by the time Mr. Simerson gets there the snow has already been plowed privately.

Special Board Planner Wiser stated we recommend that the record does not support the petitioner's contention that the Township is not equipped to handle the snow, that its department of public works is undermanned, or that the Township can't afford the necessary manpower. He indicated the fact that Seaview Harbor may not be plowed quickly enough, he thinks, is due to a combination of factures including Mr. Simerson policy to clear the major roads first. Special Board Planner Wiser stated in that respect, as Mr. Simerson testified, they are no different than any other residential subdivision in the Township.

Special Board Planner Wiser stated moving on to street cleaning and maintenance. He indicated street cleaning, pothole repair and general maintenance Mr. Simerson testified that public works "gives adequate attention to all neighborhood in the Township" and that "every part of the Township is treated equally, whether contiguous or not". He stated our visual inspection of the road in Seaview Harbor finds that while some deterioration exists, classifying the roads as in some of the language of the petitioner's exhibits as in "deplorable condition" or "disgusting and dangerous" is hyperbole.

Special Board Planner Wiser stated Mr. Simerson incentive to ensure that Seaview Harbor's needs are addressed is really compelling. He stated the fact that his boss, Mayor McCullough, lives in Seaview Harbor evidence to us Mr. Simerson's incentive to make sure public works treats that neighborhood properly and appropriately.

Special Board Planner Wiser advised he is moving on to Superstorm Sandy. He indicated the nature of Sandy in both in its initial impact and in the public sector's response was an unprecedented and anomalous act of nature. He advised in the immediate aftermath of Sandy, access to the barrier islands was prohibited and different roadways were reopened at different times based on their ability to permit safe travel.

Special Board Planner Wisner stated the fact that access to Seaview Harbor was attainable through Margate and Longport while utility crews were working to clear the Route 152 is no indication that Township services were less than adequate, that Township actions were less than appropriate, or that access should have been provided any differently if Seaview Harbor or access would have been provided any differently if Seaview Harbor were a part of Longport and not Egg Harbor Township.

Special Board Planner Wisner stated in fact had Sandy made landfall a little earlier or a little later, or a little north or a little south, or had a tree fallen a little left instead of a little right than it did, or any other number of events occurred differently. He stated it is entirely possible that Route 152 would have been cleared before access to Longport could have been provided. Special Board Planner Wisner stated the reality is the municipality to which Seaview Harbor belonged was irrelevant to providing access to the community in the immediate aftermath of Sandy and will continue to be irrelevant for future storms.

Special Board Planner Wisner stated attempting to ascribe any link between the storm, the Township's response, and Seaview Harbor's Egg Harbor Township's location including assertions that the Township was somehow ill-prepared or neglectful, or that Longport was somehow better prepared or more responsive because residents were eventually able to return to Seaview Harbor via Longport we think is over overreach.

Special Board Planner Wisner stated assuming successful deannexation the Township would maintain its responsibility to service Anchorage Poynte and Route 152 to the Kennedy Bridge. He indicated the Township could expect minor savings in fuel, tipping fees & incidental maintenance for equipment not being required to service Seaview Harbor. He advised it would not be a major savings because of the requirements to service Anchorage Poynte and trips out to the bridge.

Special Board Planner Wisner stated depending on the particular storm, snow in Seaview Harbor, upon successful deannexation, depending upon the particular storm, snow in Seaview Harbor may be removed sooner, but we really do not know. He indicated we cannot know this and no testimony was put on record indicating that.

Special Board Planner Wisner stated whether public works services for the balance of the Township would be improved, upon a deannexation, is debatable. He advised we think logically some services may improve while others may suffer. He indicated there was nothing put on the record to indicate one way or the other. Special Board Planner Wisner stated what has been put on the record is the loss of ratables is likely to result in a smaller Public Works budget, which in turn is likely to result in a loss of manpower, equipment purchases and a reduction in maintenance.

Special Board Planner Wisner stated with the exception of the frequency of recycling and the timeliness of snow removal, nothing has been put on record supporting the contention that the residents of Seaview Harbor would receive better Public Works service if Seaview Harbor was part of Longport. He explained petitioner's assertions that Seaview Harbor is not adequately serviced by the Township's department of Public Works or that it somehow receives less service than other mainland residential sections of the Township are simply not supported in the record.

Board Member Aponte asked Special Board Planner Wisner to go back a few slides concerning social injury. He asked for clarification concerning a comment concerning "Egg Harbor Township has not been deprived of petitioner's participation". He asked should this not be Seaview Harbor. Special Board Planner Wisner stated no. He indicated this was actually an area he stumbled on. He advised we

addressed were it says “petitioners are not being deprived of the ability to participate”. The first indicates the Township is not being deprived of petitioners participation in religious, civic, cultural, intellectual activities in terms of civic activities we have the litany and will get to more later of the whole participation Seaview Harbor has provided in the past.

Special Board Planner Wiser indicated in terms of religious, civic, cultural, intellectual activities we put emphasis on the term “deprived”. He indicated we recognize the petitioners do not participate in the religious, cultural, and intellectual activities but there is nothing depriving them of participating. It is that they have chosen not to do that. Board Member Aponte stated he understands how it reads now. Special Board Planner Wiser stated when he was going through his notes he trip over this also.

Special Board Planner Wiser stated he would like to discuss emergency services. He indicated the petitioners assert that Seaview Harbor is not well served by the Township's 9-1-1-dispatch, police, fire, ambulance and emergency medical services. He advised with respect to 9-1-1 dispatch the interlocal agreement whereby the Township dispatches Longport’s public safety services we believe renders moot Petitioner’s assertion that Seaview Harbor would be better off if Longport dispatched their emergency services. He indicated if deannexation were to occur, given this admittedly event that happened in the middle of the petition process, the fact of the matter is the Township would still dispatch to Seaview Harbor.

Special Board Planner Wiser stated in terms of police the petitioners assert that Seaview Harbor’s reliance on Township police puts them in jeopardy since the Township police cannot respond as fast to a situation as Longport police can. He indicated petitioner’s also claim that the Bargaintown location of the Township’s police department plays a role in police response to Seaview Harbor. He advised we think this discounts the fact that police affirmatively patrol the Township and are not sitting in the Bargaintown police station waiting for a call. Special Board Planner Wiser stated they are out, as testified too, patrolling around district five (5) and the other police districts which includes Seaview Harbor.

Special Board Planner Wiser stated similarly claims of one (1) to two (2) minute Longport response time discounts the fact that the Longport police are not positioned at the base of the Bridge waiting for a Seaview Harbor to call. He advised in addition to Seaview Harbor the Township police patrol five (5) police areas. He stated area five (5) includes Anchorage Poynte and Route 152. He indicated we did a map quest analysis and calls for service answered by a Township patrol at Anchorage Poynte would be expected to have an equivalent response time to Seaview Harbor as a Longport Patrol would have if responding from the Seaview Condominiums in the Borough (Longport).

Special Board Planner Wiser referred to his Power Point slide stated a Township police officer coming out of Anchorage Poynte and running to Seaview Harbor would be equivalent to a Longport police officer responding from the Seaview Condominiums up Ventnor Avenue over the bridge and into the community.

Attorney Doyle advised he is not going to question Special Board Planner Wiser during his presentation, however, he advised he does not recall Screen #22 being part of his report. He indicated it is very visual and he appreciates what he said. However, in the beginning we advised if we were not going to receive the report at least provide the screen shots. He stated if he is wrong. Special Board Planner Wiser stated Attorney Doyle is correct. Special Board Solicitor Marcolongo advised he has no problem marking the power point presentation into evidence and Attorney Doyle will receive a copy. Attorney Doyle advised fine.

Board Member Aponte stated the comparison is more a straight shot (Anchorage Poynte) than going over the bridge. Special Board Planner Wiser stated he understands and there is more to come on this so he will provide a context.

Special Board Planner Wiser referred to his next slide (power point) advising a police patrol that happens to receive a call when they are at the traffic light on Route 152 (in front of the f.k.a. Dune's) would be expected to have an equivalent response time to Seaview Harbor as a Longport patrol would be responding if they happen to get their call from the base of the bridge. He stated on the other hand a Township patrol in certain locations on the mainland would clearly have a much longer response time than a Longport patrol at the southern end of the Borough.

Special Board Planner Wiser stated what he tried to was take a short, medium and long sample to try and to get these examples for the Board (referring to his power point presentation). Board Member Aponte referred to a blue line on the power point slide asking where it is. Special Board Planner Wiser stated it is Blackman Road (Egg Harbor Township) and it is at the municipal border line. He referred to his power point slide (being used with this line of testimony) advising assuming a police patrol is at this location the times referenced on the slide would be equivalent. Special Board Planner Wiser stated, while still referring to the slide, obviously a police patrol further out would be longer.

Special Board Planner Wiser stated it is just the reason for these equivalent or more lengthily response times that the Township police department has a relationship with Longport police department via municipal aid. He indicated what we heard through testimony is that Longport will respond to an emergency if Township patrols can't respond in a timely manner. He advised Longport may not respond to non-emergent situations but they will respond to an emergency.

Special Board Planner Wiser advised Chief Davis testified that there are only two (2) Longport police officers on duty at any one time. He indicated we recognize the petitioners challenged this claim and it may be three (3). He advised we do not know specifically but a synopsis of police department manpower levels by the New Jersey State Police supports the Chief's testimony, if not his specific numbers, that the Township has more manpower out on the street than Longport would at any given time. Special Board Planner Wiser stated given this manpower distribution an incident in Longport will limit that police department's ability to respond to Sea Harbor if needed.

Special Board Planner Wiser indicated he would like to take a step back; slicing off any comparison between the Township's police department and Longport's police department if you look at the numbers, Longport in and of itself, has less officers on payroll. He stated clearly that means they have less on the street at any one (1) time. He advised if they are busy doing police work in Longport and an issue in Seaview Harbor comes in. They likely not to be able to get there fast enough because they don't have the number of patrols available to free up to get there.

Special Board Planner Wiser stated so while one could debate the numbers whether the Chief is right in terms of they only have two (2). He indicated clearly in terms of scarce resources a blanket statement that says Longport will be able to respond quicker to Seaview Harbor cannot be made and he thinks that is what we are trying to say here.

Special Board Planner Wiser stated finally, petitioner's assertions that they are not well-served by Township police are countered by the testimony and exhibits stating, which came from the minutes of the Seaview Harbor Association/Seaview Harbor Community Club over the course of time speaking of

police, “the one thing I have felt living in this community is that it was safe. You could go out at night, walk around and not feel threatened”. He then referred to another comment made after some car break-in’s “although we feel this is a very safe community. We should also be aware that our community is not exempt from these kinds of things”, “we all feel comfortable and relaxed in this community, however, beware of unwelcome criminals could hit at any time”.

Special Board Planner Wisner stated with respect to the impact of deannexation on the police department we recognize that many variables will affect the budgetary impact of deannexation and its possible Township Committee will elect to make no cuts in police and direct the cuts elsewhere, should deannexation occur. However, looking back on the history of belt tightening during the economic downturn in 2007-2010, it is likely that reduced Township revenues will result in the Township not backfilling vacant police positions and eliminating what are considered discretionary police programs.

Special Board Planner Wisner stated moving on to fire service. He indicated under mutual aid Longport’s fire department is the first Responder for Seaview Harbor. He indicated the distance from the Townships firehouses to Seaview Harbor and the relative times required to travel from the Egg Harbor Township mainland or from Longport to the community are irrelevant. He advised mutual aid from Longport is a contractual relationship that cannot be denied to Seaview Harbor.

Special Board Planner Wisner advised accordingly, in terms of levels of service and response times, Seaview Harbor will see no change in fire response should deannexation occur. He indicated in terms of budget, unlike the police department, the Township’s fire service is 100% volunteer. He noted so while reduction in Township revenue upon a successful deannexation will not have the same impact that it might on the police department. It is likely to result in a reduction of funding for the purchase of apparatus, equipment, and building maintenance.

Special Board Planner Wisner noted that as with the police department, as discussed earlier, many variables will affect the budgetary impact should deannexation occur and it is possible that the Township Committee will elect to make no cuts in Fire Service funding, again, electing instead to direct any loss of ratables elsewhere. However, given the history of belt tightening during the 2007-2010 period, it is likely that reduced Township revenues will negatively impact the fire department in terms of purchases and maintenance.

Special Board Planner Wisner stated in terms of ambulance/E.M.T. services. He advised under mutual aid the Longport ambulance service is the first responder for Seaview Harbor. He indicated so as with police the distance from the Township’s ambulance headquarters to Seaview Harbor and the relevant times required to travel to Seaview Harbor from the Egg Harbor Township mainland or from Longport are not relevant.

Special Board Planner Wisner stated so the fact that the Township’s ambulance services is headquartered on Fire Road has no impact on ambulance response times to Seaview Harbor because again, Longport for emergency response is the first responder.

Special Board Planner Wisner stated as with fire, mutual aid from Longport is a contractual relationship that can’t be denied to Seaview Harbor. So, Seaview Harbor will see no change in ambulance levels of service or response time response should deannexation occur.

Special Board Planner Wisner stated ambulance services are funded via a user fee whereby patients or their insurance companies are billed directly for service so deannexation will have no impact on the Township's provision of ambulance services.

Special Board Planner Wisner stated to summarize, assuming successful deannexation, there will be no change in 9-1-1 dispatch services to Seaview Harbor, there will be no change in fire or ambulance/EMT services to Seaview Harbor and there will be no improvements to police services to Seaview Harbor should deannexation occur.

Special Board Planner Wisner advised no evidence has been placed in the record to suggest that Seaview Harbor residents have experienced any injury related to emergency services. He advised we find and recommend that petitioner's assertions that Seaview Harbor is not adequately served by the Township's 9-1-1 dispatch, police, fire and ambulance/E.M.T. service are not supported by the facts in evidence. He advised the record reflects that the community has very little crime and that Longport will provide immediate response should the situation warrant.

Special Board Planner stated we do note that individual instances may have occurred where responses to Seaview Harbor were not as quick as they could have been. He stated we think this is more likely to do with human error than on a long term, structural, and inherently irremediable detriment of the type the legislature had in mind when enacting the deannexation statute. Special Board Planner Wisner stated in other words individual instances are not evidence of a systemic problem.

Special Board Planner Wisner stated in conclusion for public safety nothing has been put on record supporting the contention that the residents would receive better emergency services if Seaview Harbor were part of Longport. He indicated conversely, testimony has been put on the record that the balance of Township would be harmed if Seaview Harbor were permitted to deannex to Longport.

Special Board Planner Wisner advised he would like to move on to Zoning. He indicated the petitioner's contention that the Township's zoning for Seaview Harbor is incompatible with the neighborhood and inappropriate for a coastal community is not supported by the facts in evidence. He stated lot sizes and building regulations for Seaview Harbor were established by the original developer by Restrictive Covenants in the indenture for the property.

Special Board Planner Wisner explained no changes were made to the subdivision or Restrictive Covenants by subsequent developers to suggest that the original development pattern or land use regulations were incompatible or inappropriate to a coastal community. He noted, however, when it became apparent that land use regulations may have over time become incompatible or inappropriate the Township amended the regulations to R-6 zoning.

Special Board Planner Wisner then referred to his power point slide, indicating this information is within his report, advising under the original restrictive covenants. The original land use regime the minimum front yard setback was 30' ft., under R-6 it became 15' ft., the setback for front entry garage's was 20 ft., they became less generous to 35' ft., the minimum front yard setback for side entry garages was 20' ft. and became more generous at 15' ft., the minimum rear yard setback for bulkhead line did not change, minimum side yard setback became more generous at 5' ft. and minimum aggregate side yard setback became more generous at 15' ft. and new building height and building coverage were instituted. He advised they were not there before.

Special Board Planner Wiser stated all Seaview Harbor residential lots run street to lagoon. He indicated what we found was that almost 97% of the regularly shaped residential lots in Seaview Harbor conform to the Township's R-6 minimum lot width requirements. He stated almost all the regularly shaped, and we understand, given the nature of Seaview Harbor, there is a lot of irregularly shaped lots that will never conform to anything because of their very nature but 96.9% of the regularly shaped lots in Seaview Harbor conform to the Township's R-6 minimum lot width regulations.

Special Board Planner Wiser stated no evidence was put in the record demonstrating how R-6 zoning is incompatible with the neighborhood. He indicated the petitioner's planner said it was but didn't give us any explanation as to how it was. He noted the petitioner's contention that the Township requirements for minimum garage setbacks are incompatible with the existing lot sizes in Seaview Harbor and thereby necessitating variance relief for any construction is not supported by the facts in evidence.

Special Board Planner Wiser stated of specific issue was the contention that R-6 requirements ruled-out building houses with garages without variance relief. He advised a drive through Seaview Harbor finds that houses with front and side entry garages can and have been constructed or reconstructed in Seaview Harbor. Special Board Planner Wiser stated while it is not known how many of these homes, if any, required variance relief related to the garage setback issue building permits issued for 26 dwellings in Seaview Harbor from 2000 to when Mr. Miller submitted his spread sheet required no variance relief at all and nine (9) of those dwellings were issued permits in the 15 months after R-6 zone was instituted.

Special Board Planner Wiser stated what that seems to us is that development could and did happen without variance relief and that R-6 zoning contributed or facilitated to that development. He indicated Seaview Harbor homes with more generous setbacks are able to park multiple vehicles onsite. He then referred to his power point slide advising what is shown is two (2) homes that are just examples with larger setbacks with larger driveways where vehicles can be parked on site. He stated conversely homes with less generous setbacks are force parked vehicles that extend over the sidewalk. Special Planner Wiser stated these conditions represent a danger to pedestrians including seniors and those with baby carriages who are required to walk into the street instead of keeping to the sidewalk. He noted from his power point presentation slide that the picture really does speak for itself.

Special Board Planner Wiser stated as relates to Petitioner's contention that Longport's zoning is more appropriate for Seaview Harbor than Egg Harbor Township's zoning. Longport is a long established municipality with a traditional grid development pattern that appears to be an extension of the historical development patterns of Atlantic City, Ventnor, and Margate.

Special Board Planner Wiser referring to his power point presentation stated while we have Longport here we did include Ventnor, Margate and Atlantic City in the report in terms of the graphics that show the grid extending down the island. He stated on the other hand Seaview Harbor resembles a suburban subdivision with curvilinear streets and bulb Cul-de-sac's. He noted clearly, the geometry of Longport and Seaview Harbor are not comparable.

Special Board Planner Wiser stated an analysis of the permitted uses and bulk standards in Longport's RSF-1 Zone (Residential Single Family – 1 zone) which Ms. Cuvillo says is a fit for Seaview Harbor, Ms. Cuvillo is the petitioner's planner, finds no material difference between Longport zoning and Egg Harbor Township's R-6 Zoning. Special Board Planner Wiser stated while it was asserted Longport's zoning is more appropriate the zone that is supposed to be most close of a fit to Seaview Harbor is really not different than the Township's R-6 zoning.

Special Board Planner Wisner stated so in the final analysis the appropriateness of Longport's zoning to Seaview Harbor is a subject of assertion based on the hypothetical application of regulations designed to address the needs of a separate municipality. He stated in fact, Longport's RSF-1 Zoning is not materially different than Egg Harbor Township's zoning for the community. Special Board Planner Wisner stated in its decision in D'Anastasio the court ruled that the legislature did not adopt the deannexation statute to be used as a means to obtain more favorable zoning. It ruled that zone shopping does not provide a valid reason for altering otherwise historical municipal boundaries.

Special Board Planner Wisner stated even if petitioners were able to demonstrate that Egg Harbor Township zoning is incompatible, impractical, and/or detrimental to Seaview Harbor and even if they were able to demonstrate that Longport zoning is more compatible, practical, and appropriate for Seaview Harbor than is Township zoning, and we are not saying they did, even if find that they did, such rationale would not be a permitted basis for deannexation under the law.

Special Board Planner Wisner stated the next issue is governmental representation. He advised Seaview Harbor is part of Atlantic County Freeholder District 2, which includes Northfield, Linwood, Somers Point, Longport, Margate, Ventnor, and small parts of Egg Harbor Township and Atlantic City. He advised the mainland section of Egg Harbor Township is part of Freeholder District 3.

Special Board Planner Wisner stated the petitioner's assert that placing Seaview Harbor in the same Freeholder District as Longport reflects the County has agreed that the community is more like Longport than the mainland section of the Township and that such districting diminishes the community representation at the Township level.

Special Board Planner Wisner referring to his power point presentation noted the area which is District 2 and District 3 indicated District 3 is most of the Township and a small area of Hamilton Township. He indicated under the one (1) person one (1) vote process of electoral apportionment voting districts are based on the number of eligible voters in a geographic area not the socio-economic characteristics of the voters or the physical characteristics of the community in which they live. He stated contending that Seaview Harbor's placement in Freeholder District 2 somehow represents a connection to Longport misstates the process.

Special Board Planner Wisner stated we also note Freeholder District 2 also includes Linwood, Northfield, and Somers Point. He advised under the theory offered by petitioner's one could say that Seaview Harbor just as easily could be likened to these mainland communities as they could the coastal communities. He advised it is a comparison that cuts both ways. Special Board Planner Wisner stated currently seven (7) of nine (9) Freeholders are responsible to one extent or another for Egg Harbor Township constituencies. He advised this translates to 78% of the County's Freeholder Board. He advised having 78% of the County Freeholder Board responsive to Township concerns can't be viewed as anything but a positive factor in providing County services to the Township. Special Board Planner Wisner stated any contention that a Freeholder who represents the mainland section of the Township can't be responsive to the Township's coastal concerns we think is frankly unduly parochial.

Special Board Planner Wisner stated not related to the Freeholder's but in terms of governmental processes' the fact that Scullville fire station No.1 where Seaview Harbor votes is a 14 minute drive from the community does impose a minor inconvenience on petitioners who may not want to drive this

amount of time to vote. He indicated we also not voters can avoid this inconvenience by voting by mail, albeit that is a relatively new advent.

Special Board Planner Wisner stated we do concur with petitioners that Seaview Harbor demographics reflect a shore community more than they do the balance of the Township. While petitioners cite this as an indication that the community should be part of Longport, we see this as diversity bringing value to the Township. He indicated as stated by the economist Dr. Perniciaro, who testified before the Board, "and just as in your personal financial portfolio, in times of uncertainty and change, it is advantageous to have a tax base that is as diversified as possible" and "any economic diversity in times of extreme economic stress serves to improve the current overall situation of the Township and forms the basis for a quicker and sounder recovery". Special Board Planner Wisner stated in this respect the Township would experience socio-economic injury if deannexation were to occur.

Special Board Planner Wisner stated we discussed zoning but separate from zoning the petitioner's assert that the Township's planning efforts ignore Seaview Harbor. He indicated to this we note that Seaview Harbor resident Dan Garshman was a Planning Board member from 1983-1986, Seaview Harbor resident, Victor Fiore was a member of the Planning Board from 1987-1993 and 1996-1999 serving three (3) years as Vice-Chairman and five (5) years as Chairman, petitioner Ralph Henry was a member of the Planning Board from 1999 to 2005, including seven (7) years as the Chairman, Seaview Harbor resident, Mike Hull was a Planning Board Member in 2005, and Seaview Harbor resident James J. McCullough was a member of the Planning Board 1986, 1989-1992 and 1996 to the present.

Special Board Planner Wisner stated Seaview Harbor resident, Dan Garshman was a member of Township Committee from 1984-1986 and Mayor McCullough was a member of Township Committee from 1986 to present and Mayor in 1986, 1988-1992 and 1996 to present. He indicated clearly these individuals would have insured the needs of Seaview Harbor were addressed during any planning process as part of the Planning Board or any ordinance process as part of the governing body.

Special Board Planner Wisner stated as part of this Mr. Fiore participated in the 1988 Master Plan Re-examination, the 1988 Land Use Plan Element, the 1988 Housing Element, the 1992 Land Use Plan Element, the 1993 Open Space and Recreation Plan, the 1996 Housing Element and the 1998 Housing Element and Fair Share Plan. He then noted Mr. Henry would have participated in the 2000 Master Plan, 2002 Master Plan amendments. Special Board Planner Wisner stated Mr. McCullough would have been involved in the 1992 Land Use Plan Element, 1996 Housing Element, 1998 Housing Element and Fair Share Plan, 2000 Master Plan, 2002 Master Plan Amendments. Again, noting clearly these individuals would have ensured the needs of their community from a Planning perspective would have been addressed.

Special Board Planner Wisner stated he is moving on to economic injury. He indicated the petitioner's assert that they experience economic injury due to tuition that residents are forced to pay to send a child to private school because the Township schools are too far away, address confusion, the Township's lack of participation in the FEMA Community Ratings System (CRS) program and taxes.

Special Board Planner Wisner advised in terms of tuition, while the tuition paid to send a child to private school may be an economic burden, but the burden has more to do with an individual family's choice of schooling rather than the Egg Harbor Township location of Seaview Harbor. He indicated we discussed this issue before. He advised where you live is a choice and choices include trade off's.

Special Board Planner Wiser stated given the limited number of children in Seaview Harbor this issue does not impact the majority of the residents of the community.

Special Board Planner Wiser stated in terms of address confusion. He stated it would appear that confusion over Seaview Harbor's addresses does result in some measure of difficulty that relates to bills and other economic issues for the residents. He indicated while such difficulties are no doubt annoying, inconvenient, and perhaps embarrassing no evidence of financial injury has been submitted. He advised as stated previously these issues likely can be ameliorated, if not fully cured, by educating individuals as to Seaview Harbor's correct municipality and zip code.

Special Board Planner Wiser advised moving on to the CRS program. He indicated to remind everyone the CRS program provides for flood insurance premium discounts based on a number of levels of that are in turn based on municipal actions. He advised petitioners assert that they are being economically harmed as a result of the Township's nonparticipation in the CRS program and that the Township is one of a very few coastal towns that does not participate in the program.

Special Board Planner Wiser advised petitioners submitted what they stated was a FEMA Map to support their claim that the Township as one of very few costal municipalities that did not participate in the CRS program. He then referred to his power point slide advising this is the map he just discussed. Special Board Planner Wiser stated in response to this Mr. Miller pointed out that the map submitted by Petitioners was incomplete and he submitted the full FEMA map with legends and explanatory notes.

Special Board Planner Wiser stated these legends and notes indicated the intent of the map was for FEMA to show participation in the National Flood Insurance Program not the CRS program. He advised the intention of the map was not as suggested by petitioners, so petitioners testimony linking this map to the Township's lack of CRS participation is misleading. Special Board Planner Wiser stated in fact, the exhibits submitted by Mr. Miller show that only 59 out of New Jersey's 565 municipalities participated in the CRS Program at that time this was being discussed. He advised Egg Harbor Township was hardly unique in not participating in this program.

Special Board Planner Wiser stated as to the program itself, petitioners assert that the Township's average flood insurance premium causes economic injury and suggest that Longport's CRS discount of 25% would cure that injury. However, no evidence has been submitted indicating the actual flood insurance premiums paid by Seaview Harbor residents, the actual premiums paid by Longport residents, or if deannexation would result in a premium reduction below what is currently being paid.

Special Board Planner Wiser stated the average Township flood insurance premium figure of \$968.00 was provided by way of a FEMA report submitted by petitioners. However, as was with the map this exhibit was only a portion of the FEMA report. He indicated the full FEMA report also included Longport's average insurance premium and a comparison is shown on his power point presentation slide. Special Board Planner Wiser did advise this is not the same report submitted by the petitioner's. He indicated this is a more recent report. He noted we could not find the one on the internet the exact one that the petitioners submitted.

Special Board Planner Wiser advised what this shows is more full flushed out in his report itself. He advised it is truncated for his power point presentation slide. He advised the Township's annual insurance premium is \$916.00. He indicated Longport's average annual insurance premium, including its 25% CRS discount is \$975.00, which is \$59.00 more than the Township's which does not yet enjoy a CRS

discount. He stated if we include a 5% discount the Township residents will receive upon the Township's entry into the CRS program. He stated it is simply they sign-up, they're accepted by CRS the Township gets a 5% discount.

Special Board Planner Wiser stated that math calculates that the average Township homeowner will pay \$104.00 less in annual flood insurance premiums than the average Longport resident. Special Board Planner Wiser stated what we're saying is as soon as the Township gets accept into CRS the average Township homeowner will pay \$104.84 less than the average Longport resident who has a 25% CRS discount.

Board Member Aponte asked if this number includes the \$59.00 previously discussed. Special Board Planner Wiser indicated it is based on the raw numbers. Board Member Aponte stated so it is inclusive of the \$59.00. Special Board Planner Wiser stated yes.

Special Board Planner Wiser stated he is turning now to taxes. He stated for Seaview Harbor deannexation will result in a considerable annual tax savings. He indicated \$17,774.00 is the average and for the Township there was some discrepancy between Mr. Ryan's figures and Mr. Costello's figures as to the tax impact, we provided both so the Board could see. Attorney Doyle stated just so we are clear the discrepancy was based upon the fact that they used different years, was it not. Special Board Planner Wiser stated he thought there was another issue as well in terms of Mr. Costello not taking into consideration some tax appeals. He advised he will stipulate the numbers are different for whatever reason the numbers are different.

Attorney Doyle stated he does not understand what was just said. Board Member Aponte stated as he understands two (2) different people said two (2) different things, close enough but a couple dollars off. Attorney Doyle stated Mr. Ryan could not give you the 2015 numbers because he testified in 2014. He advised Mr. Costello could give you the 2015 numbers because he testified in 2015. Special Board Planner Wiser stated if Attorney Doyle has a problem with the word discrepancy then it is two (2) separate figures. Board Member Aponte asked if Special Board Planner Aponte say "discrepancy" as in a nefarious fashion. Special Board Planner Wiser stated he did not at all. Attorney Doyle stated they are two (2) separate years are they not. Special Board Planner Wiser stated yes.

Special Board Planner Wiser stated the \$17,700 figure in annual tax savings to be expected by the average assessed residence in Seaview Harbor should deannexation occur is not insignificant it is a big number. He stated whether is \$86.00 or \$123.00 or some other amount in between, the annual tax increase to be expected by the average assessed residence in the balance of the Township should deannexation occur we do not believe is insignificant for the remaining taxpayers of the Township.

Special Board Planner Wiser stated obviously the numbers are different and their order of magnitude different but so is the values of the properties. He stated how does this translate for the Township. He indicated deannexation would result in a loss of \$500,000.00 (rounding) to the Township and \$1.8 million to the school district annually. He stated not one time shortfalls but annually. He further noted logically these revenues can only be addressed by some combination of increasing taxes and/or cutting programs and services, cutting spending.

Special Board Planner Wiser stated under State law municipalities and school districts operate under a 2% cap on tax increases. The Township Committee and Board of Education, as with most governing

bodies and school districts, have found it increasingly difficult to adopt budgets that achieve this cap. He indicated deannexation will only compound this difficulty.

Special Board Planner Wisner stated we concur that refusal to consent to deannexation would be detrimental to the economic wellbeing of the majority of the residents of Seaview Harbor. He stated we cannot concur that deannexation will not cause a significant injury to the wellbeing of the remaining residents of the Township.

Special Board Planner Wisner stated we're going to assume that Mr. Doyle is going to say that you can't equate an impact of \$17,800.00 annually with an impact of \$86.00 or \$123.00 annually. He indicated rather than debate this point we note that this issue has been litigated. Speaking to the statutory standard of avoiding a significant injury to a municipality and the impact on taxes on the remaining residents of the municipality, the court, in Avalon Manor, held it is not the court's proper function to assess the relative significance of an annual tax increase of, in this case, \$67.97 or \$75.52. He stated those were the differentials in that case. Special Board Planner Wisner advised it was not unreasonable for the Township in this case to have considered such financial impacts as significant, especially in view of the tax savings that would accrue to the residents of Avalon Manor from deannexation.

Special Board Planner Wisner stated in this particular case we are dealing with numbers that are in arguable the \$86.00 to \$123.00 range in our case and in this case it was \$68.00 to \$75.00 by comparison.

Special Board Planner added an analysis of the relative tax implications of deannexation cannot be viewed outside of the context of the local economy. The impact of the decline of the Atlantic City casino industry and the South Jersey. Attorney Doyle stated this is what he is going to object to. He advised Mr. Wisner is planner not an economist. Attorney Doyle stated when he says you cannot view this outside of the economy, nobody, not even Dr. Perniciaro, who if the Board will recall had the wrong census tract, blocks and his numbers were off, testified that the Township or its collection of citizens are impacted by that. Attorney Doyle stated the taxes still come in, the money is still there, it pays for the services regardless of deannexation. He indicated clearly this is a red herring.

Attorney Doyle stated clearly Atlantic City is in bad shape, but like Mr. Wisner said about so many other things, well deannexation wouldn't change it one way or the other they still would still go to the store, they would go to church, they go to whatever. Attorney Doyle stated whether this goes or comes. He indicated whether Seaview Harbor's 92 homes are in Longport or Egg Harbor Township isn't going to change whatever impacts Atlantic City's economic woes has or not has and we do not know where it is going to be. Attorney Doyle noted the Mayor, the Governor, the Senate President, the House Speaker keep meeting all of the time but it does not change what is happening here by reason of this isolated issue, shall that 60 acres be allowed to secede from your 74 miles.

Special Board Solicitor Marcolongo stated the objection is noted on the record. He stated he feels it is appropriate to hear the testimony at this time. Attorney Doyle asked if he could have an understanding as to why it is appropriate. Special Board Solicitor Marcolongo stated it is going to the entire economic conditions surrounding this entire area and specifically Egg Harbor Township and Seaview Harbor.

Attorney Doyle stated we have been hearing so much about what case law says can he cite one case that says the overall economic condition of the regional area impacts that deannexation petition. Special Board Solicitor Marcolongo stated it has to do with taxes. Special Board Planner Wisner stated he

could cite him the case. Attorney Doyle stated he cannot answer two (2) at once, but when Special Board Solicitor Marcolongo stated it has to do with taxes. Mr. Costello testified it doesn't have to do with taxes. He said the banks keep paying in case of a foreclosure and the Township gets its money.

Special Board Solicitor Marcolongo stated Dr. Perniciaro testified that the ramifications of the economic down turn goes well beyond that. Attorney Doyle stated it might go beyond if the casino worker loses his job, but it doesn't change the effect that the loss of Seaview Harbor has on Egg Harbor Township. He indicated those are two (2) divergent issues that do not link to each other. Special Board Solicitor Marcolongo stated to move forward the objection is noted on the record but he would suggest and he recommends to the Board that they hear this testimony.

Special Board Planner Wiser stated he would add there is a specific case, which does not come to mind right now, but the courts have ruled that the Board is entitled to an expansive; to look beyond the immediacy here into a larger area. In order to look to what the impacts are going to be. He stated he could find this information by tomorrow night.

Special Board Solicitor Marcolongo advised it is within the Board's purview to decide what is relevant and what is not. Board Member Aponte asked if anyone else have a problem with what they are listening to. Township Committeewoman Pfrommer stated no, Freeholder Carman stated no. board Member Aponte asked Special Board Planner Wiser to continue.

Special Board Planner Wiser stated the impact of the decline of the casino industry on the South Jersey economy has been documented. He stated a current analysis of data compiled by the Casino Control Commission and the Division of Gaming Enforcement reveals that 1,096 residents in the 08234 zip code lost their jobs between January, 2014 and January, 2016. He indicated in terms of single family homes in the 08234 zip code 78 are in foreclosure, 530 are in pre-foreclosure and 73 are scheduled for Sherriff sale.

Special Board Planner Wiser stated he will probably be asked what pre-foreclosure means. He stated he does not know. He advised he obtain this information from a HUD website. His thought was, if HUD is going to place on the website, it is significant. Attorney Doyle asked are we saying the casino job holders who lost their jobs are the same people who had their homes foreclosed or is Special Board Planner Wiser just guessing from two (2) facts together that may have no relationship.

Special Board Solicitor Marcolongo stated that may be a very good question to ask in terms of cross examination. Attorney Doyle stated he asked so that Special Board Planner Wiser has 24 hours to try and figure out how it is relevant.

Special Board Planner Wiser stated he thinks it is relevant because it paints a picture of the condition that the residents of this Township are facing and this is the situation and the context in which the Planning Board is being asked to make this decision.

Special Board Planner Wiser stated to the Board they can look at these numbers and decide whether they are relevant or not. He stated we have laid out an extensive analysis as part of his report. He indicated the impact of these job losses, as well as, the secondary and tertiary impacts of Atlantic City's down turn ripples through the local economy and if you find that not to be relevant to deannexation that will go into your calculus.

Special Board Planner Wiser stated addressing Petitioner's assertions that any financial loss attributable to deannexation could be offset by other budget revenues, by utilizing the Township's surplus, or by growth on the mainland we once again point to the court's decision in Avalon Manor which held:

"That whatever revenues are generated by any and all of these activities already belong to the property owners of the Township. To suggest that these revenues could be considered as an offset or an amelioration of the added taxes attendant to the deannexation is to suggest the taxpayers of the Township should apply their own resources to the reduction of the increase in their taxes.

Without deannexation these revenue sources, if realized, would accrue to the benefit of the tax payers of the Township and reduce their taxes payments below current levels or perhaps offset increases unrelated to deannexation. There is no equitable basis to charge their interest in these revenues with the burden of offsetting the increase that would result from deannexation".

Special Board Planner Wiser stated again this was the judge in the Avalon Manor case.

Special Board Planner Wiser advised petitioners have made it abundantly clear that they are burdened by high taxes. While the dollar figures may be different, mainland residents face the same burden. He advised for these residents, the additional tax liability created by deannexation will only serve to exacerbate an already difficult situation.

Special Board Planner Wiser stated finally on taxes. He advised in a case that has influenced deannexation decisions since it was first issued in 1974 the New Jersey Supreme Court in Ryan vs. Demarest took issue with the plaintiffs in that case who contended that the legislative intention of the Deannexation law was to permit adjusting of the boundaries from time-to-time to conform with the changing interests of the residents of a particular area.

Special Board Planner Wiser stated the court disagreed finding in the deannexation statute an intension on the part of the legislature to give precedence to a more significant policy. That of preservation of municipal boundaries and maintenance of their integrity against challenge prompted by short term or even frivolous consideration such as tax shopping or avoidance of assessment.

Special Board Planner Wiser stated to sum up our findings regarding economic injury. He advised no conclusive evidence has been submitted to support Petitioner's assertion that the Township's lack of participation in the CRS program has caused economic injury that would be cured by deannexation from the Township and annexation to Longport. He indicated tax shopping and avoiding of assessments have been ruled by the courts to be improper motives for deannexation.

Special Board Planner Wiser stated eliminating these two (2) issues from consideration leads us to recommend that petitioners have not met their burden of proof that refusal to consent to deannexation would be detrimental to the economic wellbeing of the majority of the residents of Seaview Harbor. He further noted he does, however, find that deannexation would be detrimental to the Township.

Special Board Planner Wiser advised moving on to the assertion of the lack of Township responsiveness or neglect to Seaview Harbor. Special Board Planner Wiser stated the petitioner's assert that the Township does not know how to address the special needs of a coastal community are not supported by the facts in evidence.

He indicated the issues that particular Seaview Harbor residents have with particular Township Officials are more likely the result of human error than any long term structural and inherently irremediable detriment sufficient to support deannexation. Special Planner Wiser stated the assertions that the Township doesn't enforce its property maintenance ordinances and is totally unresponsive to complaints are again not supported by the facts in evidence.

Special Board Planner Wiser stated once again, problems that a particular resident may have had with a particular Township Officials are more likely the result of human error than any long term structural and inherently irremediable detriment.

Special Board Planner Wiser stated petitioner's assertions that the Township spends no money or resources on Seaview Harbor are not supported by the facts in evidence. He indicated the fact that Seaview Harbor is not a focus of the Township's Livable Community Plan does not evidence neglect. He advised this Plan was funded through the Pinelands Commission to address growth in the Township. Special Board Planner Wiser advised Seaview Harbor is not in the Pinelands and as testified by Ms. Cuvillo, the petitioner's planner, Seaview Harbor has no room for growth. Special Board Planner Wiser stated so the issues discussed in the Livable Communities Plan are simply not applicable to Seaview Harbor.

Special Board Planner Wiser stated the Township's initial support for the County's plan to close the Kennedy Bridge during the 2013 reconstruction project and then ultimately defer to Longport as to what plan to support. We think does support Petitioner's assertions that the Township did not represent the needs of the community in this instance. He advised what cannot be known because the bridge closure never occurred is what contingency plans would have been developed to provide access to Seaview Harbor for emergency responders if the bridge was to be closed.

Special Board Planner Wiser stated so a determination of whether the bridge closure would have been a detriment to the community or simply an inconvenience is mere conjecture at this point.

Special Board Planner Wiser stated the Township's quick correction of the in-artful language regarding eligibility for municipal recreation programs not only indicates that there was no intention to discriminate against second homeowners but is also an indication of the Township's responsiveness to resident complaints. He indicated to remind everyone there was, on the Township website, some language that on its face suggested that if you are a second homeowner, not a primary resident you can't participate in the recreation programs. Special Board Planner Wiser stated once that was brought to the attention through this deannexation process that was corrected.

Special Board Planner Wiser advised based on the totality of the foregoing this office finds and recommends that there is no support in the record for petitioner's assertions that the Township has not responded to or otherwise neglected Seaview Harbor.

Special Board Planner Wiser stated summary and conclusions. He indicated based on everything that we have heard. We believe the following are the positive impacts for the majority of the residents of Seaview Harbor coming out of any deannexation. He advised it would eliminate address confusion faced by Seaview Harbor residents, permit Seaview Harbor residents to vote in Longport's elections and participate in certain Borough civic offerings, Seaview Harbor children would be allowed to attend public schools closer to their homes, thereby increasing their ability to interact with other children and

relieving families who choose this option of the cost of private education, relieve Seaview Harbor residents of the economic injury they face as Township property tax payers, it would relieve residents of the need to drive 14 minutes to the Scullville fire station to vote, it would provide Seaview Harbor residents with weekly recycling collection in the Summer months.

Special Board Planner Wisner stated in terms of the positive impact for the remaining portion of the Township. He stated other than insignificant financial savings, the record contains no evidence that the Township or the school district would be positively impacted should deannexation occur.

Special Board Planner Wisner explained the negative impacts for the majority of Seaview Harbor residents should deannexation occur. He advised it would reduce Seaview Harbor's direct and indirect representation on the freeholder board from seven (7) of nine (9) or 78% to five (5) of nine (9) which is 55%. He indicated it would result in the loss of social diversity associated with the mainland portion of the Township that is available to Seaview Harbor residents should they seek to take advantage of those opportunities.

Special Board Planner Wisner stated negatives for the remaining portion of the Township. He advised deannexation would or could formally bar Seaview Harbor residents from participating in the Township's civic affairs, remove one of the most unique, prestigious, upscale communities in the Township, as well as, certain intangible enhancements of one of its nicest areas, result in the loss of significant socio-economic population for the Township and thereby eliminate a stabilizing element for the Township's economic diversity, potentially impose economic injury on the remaining Township residents as the Township is forced to increase taxes and or cut services to compensate for the loss of \$505,000.00 in a deannexation year and subsequent impacts annually, potentially result in the reduction of public works funding leading to a reduction in manpower and services, potentially result in the reduction of police funding leading to a reduction in manpower and services, potentially result in a reduction of fire service funding leading to a reduction in equipment purchases and maintenance

Board Special Planner Wisner continued by stating impose an economic injury on the remaining Township residents as the school district is forced to increase taxes and or cut services to compensate for the loss of 1.8 million dollars in the deannexation year and subsequent impacts annually, thereafter, leading to a reduction in manpower, education programs and services. He further noted that while it is not known how deannexation would impact the Township's school district bonding capacity any reduction in ratables that would reduce the Township's fund balance could impact its bond rating.

Special Board Planner Wisner stated he would like to discuss recommendations. He advised confusion over being part of Longport. He stated while the testimony and exhibits taken as a whole support the petitioner's assertion of confusion over the municipality in which the community is located the individual difficulties cited are relatively minor in nature and likely easily ameliorable if not curable.

Special Board Planner Wisner stated it is recommended that they do not rise to the level of long term, structural, and inherently irremediable detriment that the Legislature had in mind when it adopted the deannexation Statute. He stated in terms of social injury the various elements of social detriment presented by petitioner's, while fully within the framework established by the New Jersey Supreme Court in Ryan, which again with reference to the poster presented earlier, may be, individually, irritations and inconveniences. Special Board Planner Wisner stated taken collectively, however, these elements may work to negatively impact Petitioner's lives, but it is recommended that they do not establish

the kind of long term, structural, and inherently irremediable detriment the Legislature had in mind when enacting the deannexation Statute.

Special Board Planner Wiser stated next is public works. He advised the petitioner's assertions that Seaview Harbor is not adequately serviced by the Township's department of public works, that it somehow receives less services than the mainland sections of the Township and that little attention is paid to Seaview Harbor are not supported by the facts in evidence.

Special Board Planner Wiser stated with reference to emergency services. He indicated no evidence has been placed in the record to suggest that Seaview Harbor residents have experienced injury related to emergency services let alone significant injury resulting from the combination of distance from the Township's fire, ambulance and police stations and Township size and population. He indicated assertions that Seaview Harbor is not adequately serviced by the Township's 9-1-1 dispatch, police, fire and ambulance/E.M.T services, thereby, rendering the community unsafe are not supported by the facts in evidence.

Special Board Planner Wiser stated while individual instances may have occurred where a response was not as quick as it could have been this is more likely to do with human error than on a long term, structural, and inherently irremediable detriment of the type the legislature had in mind when enacting the deannexation law. He stated further, nothing has been put on record supporting the contention that the residents would receive better emergency services if Seaview Harbor was part of Longport.

Special Board Planner Wiser stated assertions with respect to planning. He indicated assertion that the Township has ignored Seaview Harbor with respect to planning activities is not supported by the record. Special Planner Wiser stated with respect to zoning. He noted assertions that Township zoning is incompatible with the neighborhood or inappropriate for a coastal community are not supported by the record.

Special Board Planner Wiser stated in terms of neglect and unresponsiveness. He stated there is no support in the record for petitioner's assertions that the Township has not responded to or otherwise neglected Seaview Harbor.

Special Board Planner Wiser stated with respect to economic injury. He stated while the testimony and exhibits, again, taken as a whole support Petitioner's assertion of economic injury. He stated injury is limited to the cost of flood insurance and taxes. He further noted no conclusive evidence has been submitted to support Petitioner's assertion that the Township's lack of participation in the CRS program has caused economic injury that would be cured by deannexation from the Township and annexation to Longport. Special Board Planner Wiser stated tax shopping and avoidance of assessments have been ruled improper motives for deannexation.

Special Board Planner Wiser stated so it is recommended that the petitioners have not met their burden of proof that refusal to consent to annexation would be detrimental to the economic wellbeing of the majority of the residents of Seaview Harbor, but we recommend that deannexation will be detrimental to the economic wellbeing of the Township.

Special Board Planner Wiser stated finally and in conclusion, based upon the testimony and exhibits comprising the record, this office finds and recommends that the petitioners have not satisfied their burden of proof in evidencing that the refusal to consent to deannexation would be detrimental to the

economic and social wellbeing of a majority of the residents of Seaview Harbor and that deannexation would not cause a significant social or economic injury to the wellbeing of Egg Harbor Township.

May the record reflect Special Board Planner Wisner thanked everyone and advised he has finished. Special Board Solicitor Marcolongo stated as advised earlier. He stated he would like to mark the power point presentation as Exhibit B120. Board Member Aponte stated this would include the corrections he stated verbally such as “would” versus “could”. Special Board Solicitor Marcolongo stated right.

May the record reflect: Attorney Doyle stated he spoke with Special Board Planner Marcolongo and considering the time he would rather begin questioning tomorrow evening, unless the Board has limited questions, at 6:30 p.m. Special Board Solicitor Marcolongo advised should the members have questions he suggested they be formulated for tomorrow night and the meeting will begin with questions from the Board.

Motion Kearns/Eykyn to carry public hearing to Wednesday, February 23, 2016, 6:30 p.m., prevailing time. VOTE 5 Yes: Aponte, Carman, Eykyn, Kearns, Pfrommer.

SUMMARY MATTER(S):

SECTION I: Discussions of matters pertaining to the Board:

A: General public discussion: Motion Carman/Pfrommer to open public portion

May the record reflect no one came forward

Motion Pfrommer/Carman to close public portion

Motion Eykyn/Pfrommer to approve planning board regular and special meeting minutes of July 6, July 20, July 28, August 15 and August 25, 2015. Vote 5 Yes: Aponte, Carman, Eykyn, Kearns, Pfrommer

Motion Pfrommer/Eykyn to adjourn at 9:56 P.M. VOTE 5 Yes: Aponte, Carman, Eykyn, Kearns, Pfrommer.

Respectfully submitted by,

Theresa Wilbert, Secretary

