

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

**February 23, 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, 6:30p.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., present

Charles Eykyn, present

James Garth, Sr., Chairperson, on vacation

Frank Kearns, present

Dennis Kleiner, Alt. #1, excused

Robert Levy, another engage.

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

Peter Miller, Township Administrator, recused

Committeewoman, Laura Pfrommer, present

Daniel Pittaro, Alt. #II, excused

Paul Rosenberg, 2<sup>nd</sup> V-Chairperson, another engage.

**\*May the record reflect:** Mayor James J. McCullough has recused himself from these hearings. He has sent Atlantic County Freeholder, John Carman, whom is present.

**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.

Board Member Aponte stated he are present this evening for the cross examination of Special Planner Board Wiser. He indicted we are not here to retry or supplement the record other than any new testimony that was brought forth by Special Board Planner Wiser. He indicated both sides are done.

Attorney Doyle stated he is not sure if there is a message in this to him. However, he will cross examine Special Board Planner Wiser at all appropriate length. Board Member Aponte stated he agrees and like one of our Supreme Court Justices said one time "we know it when we see it". Attorney Doyle stated "I know what it is" and it won't be that. Board Member Aponte stated o.k.

Special Board Solicitor Marcolongo stated he had opportunity driving home last night that he had not sworn Special Board Planner Wiser in prior to his testimony last night. He advised he will have to swear him in tonight. He advised he did speak with Attorney Doyle prior to this meeting commencing concerning this and he will swear Special Board Planner Wiser in and have him swear his testimony from last night and tonight will be the truth and the whole truth. Special Board Planner Wiser interjecting advising this includes all the way back to the beginning.

**May the record reflect:** Special Board Planner Wiser: Stuart Wiser, business address is 845 North Main Street, Pleasantville, New Jersey and works for the firm of Remington, Vernick and Walberg Engineers. Special Board Solicitor Marcolongo asked Mr. Wiser does he solemnly swear the testimony he gave last night and tonight will be the truth, the whole truth and nothing but the truth, so help him God. Special Board Planner Wiser stated he does.

Attorney Doyle advised last evening Special Board Planner Wiser began with a few moments of humor, however, after a few seconds of laughter he found them to be parables. He indicated in what he means by parables, simply stories but with deeper meanings. He advised the first was, and looking at the past of this lengthy case, was whether the origins of the name Egg Harbor was based upon the egg shaped nature of a map Mr. Miller put into evidence and hand drew the egg or if it was the egg repository of birds in the area. He asked Board Special Planner Wiser if he feels that was an either/or by way of the proof's.

Special Board Planner Wiser stated it was just his way, perhaps feeble attempt at indicated how the town got its name. He advised it really has no relevance to the deannexation case before us. He advised frankly he had always heard it was the sea bird egg theory, but he did not see how it was relevant. Attorney Doyle stated relevant or not Mr. Miller testified that the only thing he was going to give in testimony was in response to what he heard before with exception of the traffic light. Attorney Doyle stated we did not put in any testimony concerning the name and how it got to be did we. Special Board Planner Wiser stated he thinks they did and hade several exhibits concerning the history of Egg Harbor Township. He stated off the website and he is not sure if it made in but something from Wikipedia. Attorney Doyle stated they followed Mr. Miller's testimony did they not. Special Board Planner Wiser stated sure.

Attorney Doyle stated didn't Mr. Miller have, correct him if he is wrong, they placed something in from the historical society, something from Mrs. Sheridan, and something from Wikipedia and all Mr. Miller placed in was his recollection of what a former Mayor, now deceased told him years ago. Special Board Planner Wiser stated sounds about right. Attorney Doyle stated the thing he drew from that besides the humor was a question of Mr. Miller who said his role and he quotes from the record on November 17<sup>th</sup> "my job is to say, you said this happened, here is the documents which say it may have happened differently or not as clearly as you recounted that it happened".

Attorney Doyle stated with that thought in mind the second story that Special Board Planner Wiser told was about whether the snow storm happened or didn't happen. Special Board Planner Wiser stated he recalls. Attorney Doyle stated that was Mrs. Burns who testified about selling her house, to he believes, Mayor McCullough, and that the closing took, as she recalls, a few days in terms of not getting the inspection because there was a big snow storm. Special Board Planner Wiser stated his recollection was the closing was postponed, but he does not recall why.

Attorney Doyle asked Special Board Solicitor Wiser if he recalls Mr. Miller in an effort, as he said, he didn't want to nit-pick, but he came in with reports from the weather station at the airport to show on a specific day there was no snow. Special Board Planner Wiser stated he does remember this. Attorney Doyle stated what Mr. Miller was doing was what he said although it was a rather minor matter, as Special Board Planner Wiser, would indicate. He was challenging Mrs. Burns' veracity. Special Board Planner Wiser stated Attorney Doyle would have to take that up with Mr. Miller.

Attorney Doyle stated Mr. Miller in effect stated she was inaccurate. Special Board Planner Wiser stated he is not going to try Mr. Miller's testimony. He indicated he does not believe that is what he is here for. Attorney Doyle asked if he is here to answer questions. Special Board Planner Wiser stated yes, based on his testimony and report. Attorney Doyle stated no. He indicated Special Board Planner Wiser will not limit him on what to ask. He stated Special Board Planner Wiser may want to limit how he wants to answer what he is asked but Attorney Doyle stated he can ask questions about the record. Attorney Doyle He asked Special Board Planner Wiser that he sat here and heard everything he did correct. Special Board Planner Wiser stated he supposed. Attorney Doyle asked Special Board Planner Wiser if he is not sure. Special Board Planner Wiser stated he did.

Attorney Doyle stated to Special Board Planner Wiser that he told another recollection that either the gentleman went out to get a cup of coffee or he didn't. He asked what was this a reference to. Special Board Planner Wiser stated he believes that is the reference to Mr. McGlinchey's retelling or his wife's retelling, he can't remember which, of plowing snow in the late night and going out an getting coffee for his wife at the WaWa in Margate. Attorney Doyle asked what is the significance of that. Special Board Planner Wiser stated he did not think it was significant that is why he included it in that section. He stated we spent a lot of time on it. Whether it was Attorney Doyle or Mr. Miller providing it or a combination of both. He did not think it was relevant.

Attorney Doyle asked Special Board Planner Wiser what Mr. Miller's rebuttal in his recollection. Special Board Planner Wiser stated he does not remember exactly. He stated he believes it was just in the middle of the night stopping after a long day of plowing snow or directing the plowing of snow in Winslow Township, where Mr. McGlinchey works. He came home, he plowed snow here, and he had time to go get his wife some coffee. He stated something like that.

Attorney Doyle asked was it not Mr. McGlinchey's testimony brought out to the point that when he did that he noted that while there was a pass taken through Seaview Harbor by Mr. Stewart and Route 152 was clear because it is a State Road that when he go to Longport the snow had been cleared there all the way. Special Board Planner Wiser stated yes, he thinks that is probably the reason he said it. Attorney Doyle stated the point being Longport was clear and Seaview Harbor streets would not have been clear at all but for the private interception of Mr. Stewart and himself.

Special Board Planner Wiser stated if that is the conclusion you draw through from that, yes. Attorney Doyle asked Special Board Planner Wiser if he drew a different conclusion. Special Board Planner Wiser stated he did not think it was relevant. Whether he went and got coffee or not he did not see the relevance. Attorney Doyle stated would it be relevant if they were a part of Longport their streets would have been cleared and as a part of Egg Harbor Township they weren't. Special Board Planner Wiser stated he does not believe you can draw that conclusion. He indicated we do not know how the manpower would relate. He advised there has been nothing put on the record as to how the manpower in Longport would relate to servicing Seaview Harbor should deannexation occur.

Attorney Doyle stated on that particular occasion that inference was correct. Special Board Planner Wiser stated no. It has nothing to do with Seaview Harbor. He indicated we do not know whether Longport would have come over the bridge and how they would have serviced Seaview Harbor. He indicated all we know that purportedly Route 152 was clear and Mr. McGlinchey could get over the bridge and get down to WaWa. Attorney Doyle asked if he recalls how Mr. Miller tried to rebut the fact Mr. McGlinchey was even there. Special Board Planner Wiser stated no.

Attorney Doyle advised he will refresh Special Board Planner Wisers recollection. Attorney Doyle stated Mr. Miller had Special Board Solicitor Marcolongo OPRA Mr. McGlinchey's work records as place of employment and put them into evidence as to suggest he could have only did that if he had stayed up all night because he had worked 12 to 14 hours that day. Special Board Planner Wiser stated yes, that is about what he recalls. Attorney Doyle stated in effect Mr. Miller was using the public records to challenge Mr. McGlinchey's creditability. Special Board Planner Wiser stated he was not part of it. He was not part of any discussion around that. He indicated the only time he heard about it was when it was being put into evidence. He advised he did not use it and he did not find it relevant. He indicated it is something that he really wants to speak to.

Attorney Doyle stated credibility was evidently an issue with Mr. Miller and his testimony with Mrs. Burns and Mr. McGlinchey. He asked would Special Board Planner Wiser not agree life is credibility and goes both ways. Special Board Planner Wiser stated he would believe this is a prefatory statement to attack his credibility so have at it. Attorney Doyle stated he knows Special Board Planner Wiser has been around the block too and he is just pointing out in case anybody were to suggest that it has been used. Attorney Doyle asked with respect to the snow incident. He asked if Special Board Planner Wiser recalls Mr. Simerson, himself the Director of the department of public works in this municipality, and that he knew Mr. Stewart and Mr. McGlinchey and he read the minutes and saw nothing in here that he disbelieved.

Special Board Planner Wiser stated he does not remember that specifically. His recollection was that Mr. Simerson said as part of his participation in the department of public works directors association he had never come across Mr. McGlinchey. He advised he does not remember the statement Attorney Doyle noted specifically.

Attorney Doyle asked for Exhibit S94. Attorney Doyle stated the final item that Special Board Planner Wiser drew upon was the picture of a man on a dock looking out from his house on the water. He indicated this was Exhibit S94 "the tale of two (2) orphans" a two (2) page article, undated, from the Atlantic City Press. Special Board Planner stated he was of the impression it was 1980's type article.

Attorney Doyle stated currently Mr. McGlinchey is the president of the homeowners association. Special Board Planner Wiser stated ok, he indicated he knew he was at one time he did not know he still was. Attorney Doyle stated Special Board Planner Wiser received an email from Mr. Miller advising him that Mr. McCullough, himself, was once the president organization sometime in the 1980's. Special Board Planner Wiser stated yes, sometime in the 1980's. He indicated his recollection was that it was before he became Mayor. Attorney Doyle when was that. Special Board Planner Wiser stated he could find that out but he does not remember off the top of his head.

Attorney Doyle advised in that article Mr. McCullough, before he became Mayor, said he just wants a town to call his own. Attorney Doyle then read onto the record sections of Exhibit S94 onto the record concerning addresses. He asked Special Board Planner Wiser is that not what people are saying in part with this petition. Special Board Planner Wiser indicated yes. Attorney Doyle then read from S94 again, concerning fire. He asked Special Board Planner Wiser is this not what the police are saying some 30 years later. Special Board Planner Wiser stated no. The police are saying you call 9-1-1. Attorney Doyle stated no the petitioners. Special Board Solicitor Marcolongo advised Attorney Doyle he did say police. Attorney Doyle apologized. Special Board Planner Wiser advised the petitioners are being directed by the chief of police to call 9-1-1.

Attorney Doyle stated he understands that but the petitioners by their petition in party, by their testimony, and by their answers to the questionnaire are saying they prefer to continue to be served by the fire, ambulance who are presently the first responders and if they needed the police they would rather call on Longport and be a part of Longport. Special Board Planner Wiser stated that is what they asserted. Attorney Doyle asked no different than what Mayor McCullough said 30 years ago. Special Board Planner Wiser stated apparently not.

Attorney Doyle stated when Mr. McCullough said “their police and fire departments, referring to Longport, already serve the area. This is what the people are saying in Seaview now thirty years later. Special Board Planner Wiser stated yes. Attorney Doyle asked Special Board Planner Wiser if he thinks the same issues going on for thirty years a suggestion that there is, at least in the minds of the collective Seaview Harbor residents and petitioners in this matter a structural deficiency.

Special Board Planner Wiser advised he thinks there is a structural system that has been put in place and has been functioning over the course of time. He advised that is mutual aid and there is a recognition, on behalf of he is guessing both municipalities, Longport and Egg Harbor Township. The distances involved that the Seaview Harbor Community would be better served under a mutual aid agreement. He advised it is structural but he does not think it is a deficiency.

Attorney Doyle stated that structure is irremediable in that it arises from distance between Longport to Seaview Harbor versus Seaview Harbor to Egg Harbor Township in particularly the police station, the ambulance squad. Special Board Planner Wiser asked Attorney Doyle to repeat his question. Attorney Doyle asked the Court Reporter to read back his question for which she did. Attorney Doyle then added and the fire. Special Board Planner Wiser stated he is not so sure the location of the police station, as testified to last night, is fully relevant given the fact the police patrol but you cannot move Seaview Harbor, you cannot move the Township and you cannot move Longport. He stated in that sense the locations are not going to change. Attorney Doyle stated all concerned because of that distance the ambulance and fire response, first response would come from Longport. Special Board Planner Wiser stated yes, to the extent Longport could respond.

Attorney Doyle stated when asked about education Special Board Planner Wiser advised he was a graduate of Dickenson College in Carlisle. Special Board Planner Wiser stated he did. Attorney Doyle asked if he had any graduate degree. Special Board Planner Wiser stated no. Attorney Doyle then discussed Special Board Planner Wiser’s employment history that was give. Special Board Planner Wiser stated he worked for the Atlantic City Housing Authority, which is an independent authority from 1988 to 1993 and for the Atlantic City itself from 1993 to the end of 2001. Attorney Doyle stated then you went to Remington and Vernick. Special Board Planner Wiser stated this is correct. Attorney Doyle asked if Remington and Vernick an engineering/planning firm.

Special Board Planner Wiser stated it is a consulting firm. He advised it started as an engineering firm and as his bosses say it is the oldest engineering firm in the State. He indicated as the needs of municipalities have expended we have expanded our expertise. Attorney Doyle asked that they still work exclusively for municipalities, public agencies and entities. Special Board Planner Wiser stated absolutely no. He advised we do have private clients. The great majority of our client base is municipalities, counties and institutions, but we do have private clients. Attorney Doyle asked if Special Board Planner Wiser has private clients. Special Board Planner Wiser stated not at the moment.

Attorney Doyle asked Special Board Planner Wiser that he has not been called upon in his work to represent citizens, people and families like he is in this matter. Special Board Planner Wiser stated he has done some work for developers, very few, very little but for all intent and purposes your statement is correct. Attorney Doyle stated you advised you worked for Egg Harbor Township before on a Redevelopment issue in West Atlantic City. Special Board Planner Wiser stated this is correct. He also did not say this but the company is the zoning board planner's and he did sit in when conflicts with the assigned planner had arisen.

Attorney Doyle asked if he has a contract for this engagement. Special Board Planner Wiser stated the firm does. He does not. He works for the firm and the firm has a contract. Attorney Doyle stated he does not believe he saw it. Special Board Planner Wiser stated he has not either. He advised it goes through the business office in Haddonfield. He indicated us foot soldiers do not get to see this. Attorney Doyle stated he appreciates that. He asked when you say foot soldiers how big is Remington and Vernick. Special Board Planner Wiser advised he is going to provide a broad range at this point because he does not specifically know. He indicated he believes they have 13 to 14 offices and we are about 275 to 300 employees.

Attorney Doyle stated he knows through Special Board Planner Wiser firm represents the planning board in this matter. It represented Strathmere. He asked whom did Special Board Planner Wiser represent in Strathmere. Special Board Planner Wiser stated the planning board. He advised he had the same function. Attorney Doyle asked in Berkley Township where his firm represents the Planning Board there is presently a petition for deannexation. Special Board Planner Wiser stated that is correct. Attorney Doyle stated you are not normally. Special Board Planner Wiser interjected that there are representative's here. Attorney Doyle you are not normally the planner for the planning board in Berkley. Special Board Planner Wiser stated no. Attorney Doyle stated but he was asked by the firm to sit in on that particular matter. Special Board Planner Wiser stated he was asked by the client to sit in on the matter.

Attorney Doyle asked why was that. Special Board Planner Wiser stated he had learned that there was a deannexation going on. He stated he believes the petition had been filed but nothing started and he had made it known to the client representative that he had some expertise or he stated he would like to take a step back experience in the matter and that if he could assist in any way he would. Attorney Doyle stated Special Board Planner Wiser when between expert and experience. He stated he knows in the Strathmere transcript Special Board Planner Wiser stated there have been so few cases there are few experts in it. Special Board Planner Wiser stated yes.

Attorney Doyle stated Special Board Planner Wiser is the holder of a Planner's license from the State of New Jersey that according to the State records was issued on 2000. He asked if he was ever a planner before this. Special Board Planner Wiser stated he worked in the planning department for the City of Atlantic City and before that in an urban renewal capacity for the housing authority. He advised he became a planner when he passed the test. Attorney Doyle stated in 2000. Special Board Planner Wiser stated yes. Attorney Doyle stated or 13 years after you were out of college. Special Board Planner Wiser stated yes, whatever it was.

Attorney Doyle stated the licensing information from the State shows your address as Pleasantville, New Jersey and this is the address provided this evening. However, the last evening it was mentioned that he resides in Egg Harbor Township. Special Board Planner Wiser stated yes. He indicated they moved to Egg Harbor Township in either 2008 or 2009. Attorney Doyle asked where had he moved from. Special

Board Planner Wiser stated Atlantic City. Attorney Doyle stated what would he say, if he told him the deed was recorded. Special Board Solicitor Marcolongo asked Mr. Doyle what is the relevance of the deed to his house. Attorney Doyle stated he was trying to be certain about the date and he was trying to help. He advised it was August 28, 2008. Special Board Planner Wiser stated ok.

Attorney Doyle stated he has asked this question of the others who have testified department of public works, administrator, the fire people and the ambulance person all whom have lived in Egg Harbor Township and as Special Board Planner Wiser. He stated so that we are clear. He did not raise the subject it was mentioned last night while discussing schools Special Board Planner Wiser talked about Seaview Harbor citizens make a parents choice and he spoke of his choices as a parent. Special Board Planner Wiser stated this is correct.

Attorney Doyle asked Special Board Planner Wiser if he is active in any organizations in Egg Harbor Township. Special Board Planner Wiser stated no. He indicated only to the extent that he tags along with his wife in the one (1) organization she is involved in. Attorney Doyle stated this an organization supporting the school system. Special Board Planner Wiser stated very good. Attorney Doyle asked he has a child or children going to the Egg Harbor Township schools. Special Board Planner Wiser stated yes, he has a daughter.

Attorney Doyle asked Special Board Planner Wiser if he knows anyone from Seaview Harbor. Special Board Planner Wiser stated yes. He advised he knows a couple of people. He stated he casually knows the Mayor, Sharon Gordon, and Billy McMenam. He advised there may be others but this is who comes to mind now. Attorney Doyle asked if the organization that he tags along with his wife does he know of anyone from Seaview Harbor who participates. Special Board Planner Wiser stated he really does not spend enough time to know any people at all other than his wife's immediate circle there. He indicated he is going to say no but he does not know if it is a valid answer.

Attorney Doyle stated in the time records that you provided to Egg Harbor Township it notes two (2) or three (3) site visits to Seaview Harbor. He asked how many times has he been there since he took on or the firm took on this engagement. Special Board Planner Wiser stated there a few site visits that he took to Seaview Harbor from his office and logged on the time, but his parents live in Margate and he drives by it all the time and there have been a number of times where he looped through. He indicated at least three (3) official and a number of unofficial. He advised it is hard for him to answer.

Attorney Doyle asked Special Planning Board Wiser if he would agree having lived here for seven (7) or eight (8) years being cognizant of the local socialmilla that inherently reflects in your observations, understanding of the testimony and ultimately in your report. Special Board Planner Wiser stated he is a professional planner and we are trained to do what you just suggested and understand the local nature of what goes on. He indicated frankly he makes the argument that; that makes him a better planner in terms of other clients and those locations. He stated they are also trained to at things with what he will say is a dispassionate eye. Attorney Doyle stated you use the word dispassionate would unbiased. Special Board Planner Wiser stated that would be a fine word.

Attorney Doyle stated on page 236 of Special Board Planner Wiser's report it discusses the effect of the combined annual local purpose and school district tax would be if it were to make up for the Seaview Harbor ratables. Special Board Planner Wiser then referred to page 236. Attorney Doyle stated to Special Board Planner Wiser that he is in fact one (1) of those tax payers aren't you.

Special Board Planner Wisner stated yes. Attorney Doyle stated when you conclude on page 240 that the deannexation will cause a significant injury to the wellbeing of the residents of Egg Harbor Township you are speaking as one of those residents who has a child in the school system and whose family is active. Special Board Planner Wisner stated absolutely not. He stated he is speaking as a professional planner who has been assigned a task.

Attorney Doyle asked assigned a task by whom. Special Board Planner Wisner advised this planning board is his client. Whom by the way each member of the Planning Board is impacted because they are residents to the extent any impact tax or otherwise as it relates to deannexation. He stated he thought Attorney Doyle went through this at the first meeting when he tried to impeach the Board. Attorney Doyle stated how did he impeach the Board, because they are tax payers. Special Board Planner Wisner stated Attorney Doyle indicated the Board could not be unbiased because they were all appointed by the Mayor.

Attorney Doyle stated he did not suggest they were unbiased as tax payers. Special Board Planner Wisner stated they are either unbiased for whatever reason or biased or whatever reason. He indicated he believes this board is unbiased and that he is unbiased. Attorney Doyle stated this Board did not give testimony. Special Board Planner Wisner stated they make the ultimately makes the decision. Attorney Doyle stated they do not give testimony. They are not a sworn expert witness. Special Board Planner Wisner stated this is correct. Attorney Doyle stated that is the difference is it not. Special Board Planner Wisner stated this Board is free to take his testimony for what it is worth at the end of the night or whenever it is they will make a recommendation to the governing body. He indicated he has no decision. Special Board Planner Wisner stated he gives them his unvarnished opinion is and they will decide whether it has any weight at all and whatever weight to ascribe to it and they will make their findings and make a recommendation to the governing body.

Attorney Doyle asked Special Board Planner Wisner that he is not a licensed engineer, surveyor and despite some 41 pages of legal analysis and other comments about what the law is, what it means, comparing cases, and suggesting the fact pattern relating that to this case, you're not an attorney. Special Board Planner Wisner stated he is not to all and never held out to be. Attorney Doyle stated though Special Board Planner Wisner made judgements about what is and what is not economic issues he is not trained in accountancy or municipal finance. Special Board Planner Wisner stated he is a planner for which he was hired for.

Attorney Doyle asked who was he hired by. Special Board Planner Wisner stated the Planning Board. Attorney Doyle stated Special Board Planner Wisner stated he was just the planner. He indicated in this matter the planner is a singularly important role to play. Special Board Planner Wisner stated he would suppose. Attorney Doyle stated instead of supposing. He stated he would be right and Special Board Planner Wisner would agree with him if he noted in a number of cases the court referred to the testimony given by the Planner for the Planning Board of the municipality as significant. Special Board Planner Wisner stated as well as for petitioners, yes.

Attorney Doyle stated ultimately, to the degree more often than not, the municipality succeeded fending off the petition the municipal planner was important. Special Board Planner Wisner stated he indicated in some cases and in some cases more important than others. Attorney Doyle stated Special Board Planner Wisner is testifying last so that his report takes into account all that proceeded. Special Board Planner Wisner stated yes. Attorney Doyle stated it is unique being last. Special Board Planner Wisner stated someone has to be last.

Attorney Doyle asked if his firm has ever been retained by deannexation petitioners given his experience in the area. Special Board Planner Wiser stated he cannot speak of the firm. He stated he has not. He added that no one that he knows has. He stated given the very few deannexation cases the names do not pop-up, so he is going to say no. Attorney Doyle stated given the nature of his work how many municipalities does the firm have a job in. Special Board Planner Wiser stated in one capacity or another an awful lot. He stated he does not know the answer. Attorney Doyle asked what is an awful lot. Special Board Planner Wiser stated probably in the hundreds. Attorney Doyle stated it would be unlikely you would take such a case. Special Board Planner Wiser stated probably. He indicated he would doubt that the firm policy makers wish to do that.

Attorney Doyle asked who and when was he first approached about taking on this assignment. Special Board Planner Wiser stated he remembers it specifically. He read a newspaper article that the petitioner's had filed the petition. He advised it was President's weekend 2014 and he emailed Mr. Miller indicating that he had some experience and he had knew Mr. Marcolongo and worked with him in Strathmere to the extent that we could be any assistance to the process we would be interested in doing that. Attorney Doyle stated he took you up on it. Special Board Planner Wiser stated he did, he advised the Board did. He indicated he does not know the internal process as to how he got from an email to an assignment.

Attorney Doyle stated so you came to be appointed on March 10, 2014. Special Board Planner Wiser stated he knows it was March. He advised the first meeting hearing was March 31<sup>st</sup>. Attorney Doyle stated the minutes of March 10 meeting reflected "Township Administrator Miller advised he had sent out recommended resolutions to assign the special legal counsel and special planner. Township Administrator Miller explained both these individuals have experience in representing a municipality in a deannexation matter". Special Board Planner Wiser stated ok. Attorney Doyle asked if that is what he discussed with Special Board Planner Wiser. Special Board Planner Wiser stated what was discussed was him representing the planning board.

Attorney Doyle stated Township Administrator Miller went onto say "Mr. Wiser will serve as the Planner in consultation with the Board and be the person who authors the report". Attorney Doyle stated this is what you were hired to do. Special Board Planner Wiser stated he was hired to write a report, which he did. He indicated whether Mr. Miller had conceived he would write the Board's report he cannot speak to. Attorney Doyle stated he had in Strathmere. Special Board Planner Wiser stated no. He advised Mr. Marcolongo had. Attorney Doyle asked if Special Board Planner Wiser had input. Special Board Planner Wiser advised he would have to ask Mr. Marcolongo. Attorney Doyle asked if Special Board Planner Wiser read a draft of it. Special Board Planner Wiser stated probably. Attorney Doyle asked if the role of writing the Board's report been assigned yet. Special Board Planner Wiser stated not to his knowledge. He advised no one has spoken to him about it.

Attorney Doyle stated subsequently at that meeting (March 10) by a vote of all nine (9) members, which included Mr. Miller you were voted to be hired. Special Board Planner Wiser stated apparently. Attorney Doyle stated Special Board Planner Wiser made the distinction between the Planning Board and the municipality. He stated Special Board Planner Wiser is familiar with the Strathmere matter. Special Board Planner Wiser indicated yes. Attorney Doyle asked if Special Board Planner Wiser is aware of the decision of Judge Armstrong who decided ultimately the case about the mechanics of the hearing process in Strathmere. Special Board Planner Wiser asked if Attorney Doyle is referring to the Frank Corado related, whether the Township could be represented at the Planning Board level.

Special Board Solicitor Marcolongo advised there was a preliminary prerogative writ action filed by the Township in order to allow the Township to participate during the hearings. He stated Judge Armstrong ruled on this and said the Township could not participate in the hearings. He advised all the hearings occurred the Township decided to deny the deannexation, an appeal occurred, and the matter eventually went before Judge Armstrong. He indicated the Judge heard two (2) different elements of it.

Attorney Doyle stated he agrees with this and he would like the Board to either take judicial notice, since they are a quasi-judicial body of Judge Armstrong's decision. He then read onto the record the decision. He would either like to present as evidence or give the members of the Board a copy of the decision. Special Board Solicitor Marcolongo asked for a proffer as relevance. Attorney Doyle stated The role of the municipality, visa via, the Planning Board in general and as applied to our case.

Special Board Solicitor Marcolongo stated it may be helpful and he had no difficulty with it. He marked as Exhibit S152 copy of Judge Armstrong decision of January 22, 2008. Attorney Doyle stated the case points out why the case was brought in and the Judge refers whether the Township of Upper may participate in the hearings not merely the attorney at the Planning Board. Special Board Planner wiser stated the attorney was a special counsel hired to represent the Township for deannexation. He indicated that's a difference that does not make a difference. Attorney Doyle stated the Judge indicates the Statute provides different functions for each body. He asked if Special Board Planner Wiser agrees with this. Special Board Planner Wiser indicated he is not going to say he doesn't agree with the Judge.

Attorney Doyle noted that as referenced in the report and as the Judge indicated on the top of page 6 (decision), which he then read onto the record. Special Board Planner Wiser stated this is correct. Attorney Doyle went on reading from the Judge's decision indicating "the Statute does not contemplate that the Township Committee participate in preparation of the very report that will form part of the basis of the Township Committees ultimate decision". Special Board Planner Wiser stated yes.

Attorney Doyle then again quoted from the Judge Armstrong's decision "maintaining separate and independent functions of the planning board and governing body as provided for in the current annexation statute allows for a better, as well as, an unbiased record. That if the entities were to co-mingle their functions and a complete and thorough record is essential in the event the governing body's decision is appealed". Attorney Doyle asked given that if Special Board Planner Wiser is satisfied in this particular matter the independence of the Township has been maintained.

Special Board Planner Wiser stated if Attorney Doyle is asking him if he has been influenced by anyone on the governing body or at the Township level he is going to say he has not. Attorney Doyle stated not that you were influenced. He asked did anyone from the Township participate in the process beyond what has happened in this room where testimony was taken, cross examination was had, questioning from the Board was had and exhibits were put into the record.

Special Board Planner Wiser stated there were a number of Township officials who gave testimony and exhibits at this hearing. There were a number of Township officials who assisted in compiling the information. So of which was for him including Mr. Miller, Tax Assessor, Board Secretary Wilbert, and any number of other people with specific knowledge of specific areas. Attorney Doyle stated meaning that at your request they provided you with information so you may draw fuller on your work and then asking how this information get to him.

Special Board Planner Wiser advised he has asked through Mr. Miller, Township Administrator to find for him. He indicated there was information Mr. Miller offered himself. He indicated there was information board had asked for, information that seemed to of interest and if not ultimately used maybe or maybe not that came up as part of the testimony process. Attorney Doyle then referred to page 7 of Exhibit S 152 and read into the record "limited Township influence at this stage is already provided for with the statutory composition of the board (he paraphrased meaning the mayor who has recused himself here and a member of governing body, which at one point we had two (2) and now we have one (1)), however, expanding the Township's participation at the Board hearing to the extent requested would be tantamount to rewriting the deannexation statute".

Attorney Doyle asked Special Board Planner Wiser if he feels the participation of the Township officials, in doing his work or contributing too, expanded the Township's participation beyond what the statute allows. Special Board Planner Wiser stated he does not think it did. Attorney Doyle asked Special Board Planner Wiser in his own words exactly what did the Township Officials do to help. Special Board Planner Wiser stated they compiled information. He stated some of the information was requested by him, some by the Board. He indicated in the case of Mr. Miller some was unsolicited, but nevertheless provided. He stated there was some confirmation where he was thinking something and he remembers he asked the police chief something, Mr. Simerson something and probably Mr. Miller asking if these facts correct.

Attorney Doyle stated Special Board Planner Wiser's report on page 5 he noted the board is to act in an independent manner. He asked independent of whom. Special Board Planner Wiser stated within the confines of the Statute it's independent of governing body. Attorney Doyle stated ok.

Attorney Doyle asked when Special Board Planner Wiser read in paper about the petitioners did it occur to him to seek out people from Seaview Harbor to see if they wanted his experienced services. Special Board Planner Wiser stated no, as indicated previously the firm does not do much private work and this is not the kind of assignment the firm would be interested in participating in. Attorney Doyle stated he advised the firm does work in hundreds of municipalities. Special Board Planner Wiser advised he was guessing. Attorney Doyle stated no all in New Jersey. Special Board Planner Wiser stated this is correct. They have offices in Delaware, Pennsylvania, Maryland and he thinks Virginia. Attorney Doyle asked him to eliminate every State but New Jersey. He asked how many in New Jersey. Special Board Planner Wiser advised he honestly does not know.

Attorney Doyle asked if his firm does anything present for the Borough of Longport or constituent entities. Special Board Planner Wiser stated not to his knowledge. He stated Longport has an in house engineer and he is not sure if he is also a planner. Attorney Doyle asked would he not done a conflict check on the computer. Special Board Planner Wiser stated the do not have computerized conflict checks. He indicated he will say the fact when he brought this to his bosses they said go extend the opportunity or follow-up on opportunity that there would not have been a conflict.

Attorney Doyle provided the definition of bias on the record. He then asked Special Board Planner Wiser if he agreed with this definition. Special Board Planner Wiser stated he supposed. Attorney Doyle stated as that defined. He asked if there was any biased on Special Board Planner Wiser's part, meaning did he have any particular inclination or opinion preconceived before you took this on. Special Board Planner Wiser stated no.

Attorney Doyle stated if you did have a preconceived inclination as to whether petitions such as this should be the petition such as this should be granted or denied automatically that would be a biased. Special Board Planner Wiser stated yes be definition. Attorney Doyle asked if this report was worked on or drafted by anyone other than yourself. Special Board Planner Wiser stated no, other than a proof reading by a secretary with his firm. Attorney Doyle asked if he did not give parts of or the whole of this report to Mr. Miller. Special Board Planner Wiser stated let him take a step back. He advised he did not give anything to Mr. Miller. He advised he did have Special Board Solicitor Marcolongo proof read it and he had Mr. Simerson look at the section that dealt with the department of public works information to make sure what he was saying was in conformance with Mr. Simerson's testimony because we did not have access to the transcript.

Attorney Doyle stated Special Board Planner Wiser provided time records were there is a four (4) hour item that occurred on March the 7<sup>th</sup> for research in preparing for the March 10<sup>th</sup> meeting where you were hired. He stated he must have been certain he would be hired to put in time before the 10<sup>th</sup>. Special Board Planner Wiser stated they routinely do this and if it does not happen it gets written off. He stated it is the cost of doing business

Attorney Doyle stated Special Board Planner Wiser went to the March 31<sup>st</sup> meeting and was aware of an extended discussion, which as Special Board Planner Wiser had said before was to "impeach" the board. Attorney Doyle stated Mr. Miller had decided to recuse himself by this time. Special Board Planner Wiser stated it was either by this time or shortly thereafter, he indicated he does not recall.

Special Board Solicitor Marcolongo stated it was before since Mr. Miller did not sit on the first meeting. Attorney Doyle stated Mr. Miller was the person Special Board Planner Wiser looked to concerning getting the job, person he looked to who said he would recommend, person who sent in the resolution to the board which they approved and the person who you worked with on a number of occasions.

Special Board Planner Wiser stated he can speak to the first bullet item and the last. He stated in between he does not know how the mechanics of that works. He stated Mr. Miller was the person he communicated with first and as far as the last one in terms that he was the liaison who either got the information for him or put him in contact with the person who got the information. Attorney Doyle stated he does not believe letters that were exchanged between Special Board Solicitor Marcolongo and himself concerning Mr. Miller's recusal, his dated March 26, 2014 and Special Board Solicitor's Marcolongo's dated the day before were put into evidence and he would like to do so.

Special Board Solicitor Marcolongo asked what is the relevance and can they have a proffer. He indicated the Board has been changed with the duty of determining the effect of deannexation on Seaview Harbor and the rest of Egg Harbor Township. He stated we are going all the way back discussion how he got hired and to this point we have barely touched on the contents of his report. Attorney Doyle stated he understands. He advised this Board is charge with the responsibility under law to maintain an independence from the governing body and Mr. Miller is the chief administrator, the highest non-elected official in town, oversees under Chapter 6 the entire administrative structure of the Township which is being put to the test, if you will, by this petition and its claim of insufficient services.

Special Board Solicitor Marcolongo stated the case that Attorney Doyle introduced where Judge Armstrong ruled on the Judge was saying the Township could not actively participate in the hearing. He stated specifically by having Mr. Corato, an attorney for the Township, appear during the hearing, cross-examine witnesses bringing evidence affirmatively before the board. He advised the Judge said it would

not be appropriate. He advised the Judge did, however, said the board could hire its own professional planner, its own attorney, call witnesses such as the Township Tax Assessor so there is an understanding that the planner is going to get into the administration to gather information. He stated it was whether they could actually appear at the table and cross-examine that is where the Township is not permitted to act, not by hiring someone or participating in gathering of information. He stated he does not know how any of this is relevant to what this Board needs to do.

Attorney Doyle stated the element of what was to happen or how Judge held was that the Township could not expand its role. He advised it is larger than what Special Board Solicitor Marcolongo suggest. Special Board Solicitor Marcolongo stated they could not actively participate. He stated they wanted to hire Mr. Corato and have him appear at every hearing, cross-examining witnesses, calling his own witnesses, etc... and the Judge said no that would not be appropriate. He stated having members of the organization of the government participating in the gathering of information the Judge clearly says is appropriate because the Judge said they can call the Tax Assessor.

Board Member Aponte asked who else would have hired him otherwise. Attorney Doyle stated it is his understanding the Planning Board already has counsel and the Township is going to pay for separate counsel to sit at the table and cross examine. Special Board Solicitor Marcolongo stated the Township was going to pay for counsel was correct. Attorney Doyle stated the Judge indicated the Statute requires the Board's to maintain their separate functions so as to produce an unbiased report and that the information gathering was fine, but the Township not really the Township Committee should not participate in the drafting of the report.

Special Board Solicitor Marcolongo stated correct. He indicated Attorney Doyle had a concern about Mr. Miller's participation. He stated he agreed with that and Mr. Miller stepped down. Special Board Solicitor Marcolongo advised letters between himself and Attorney Doyle have nothing to do with this determination now. He stated Mr. Miller was not up there and he has not participate except for providing Special Board Planner Wiser with information, as Special Board Planner Wiser, has testified to. He is not at this table and he is not cross-examining.

Freeholder Carman stated he is skimming over Exhibit S152. He stated obviously he has not had time to read it, but the Judge also cites another case Paruszewski vs. Township of Elsinboro where it says the Township could participate in the hearings as long as they had no part in the decision. Again, he stated this was a two (2) second skim. Attorney Doyle stated that was a zoning board case where in the zoning board is going to make the final decision not the Township Committee themselves. Special Board Solicitor Marcolongo advised the court also said no doubt the Township Committee in some small way is going to be involved in this because two (2) members of the Township Committee are on the Planning Board.

Board Member Aponte stated he believes his question is we hire the attorney and the planner and Township Committee and the Administrator has to approve correct. Special Board Solicitor Marcolongo stated no, all they have to do is fund your reasonable expenses. Board Member Aponte stated in other words we do not have a purse string another entity does and they pay it. He stated he is trying to figure out if this is the case where Attorney Doyle is going with it.

Special Board Solicitor Marcolongo stated for the record in the Strathmere case he was the planning board attorney so he was not special counsel there. He indicated they did not have a professional

planner on the Upper Township planning board, we did have an engineer that was also a planner, but we decided it would be better to bring in a special planner for that matter.

Attorney Doyle asked Special Board Planner Wiser that he understood from the March 31<sup>st</sup> meeting Mr. Miller had recused himself and that he raised a concern previously and that he raised again at the hearing that he asked for his recusal because he had already taken a position that Egg Harbor Township would oppose the petition, which had not yet been filed. Special Board Planner Wiser stated yes, that is the position Attorney Doyle took. Attorney Doyle stated that also before that March 31<sup>st</sup> hearing, appeared, unsolicited, the Longport Board of Commissioners and said please tell him in advance that they are not going to do it because Egg Harbor Township would never let them go. Special Board Planner Wiser stated words to that effect, yes, as it was reported in the paper.

Attorney Doyle stated he was advised after he asked for Mr. Miller's recusal that Mr. Miller would participate in the process in the terms of fact gathering and providing testimony and information to the planning board. He asked Special Planner Wiser if he is satisfied that is all that he did. Special Board Planner Wiser stated yes. Attorney Doyle stated that advice came from Special Board Solicitor Marcolongo in his March 25<sup>th</sup> letter and he responded the next day indicating "I am not sure what you mean by fact gathering and providing information. The only way he should add information before the board is by being a sworn witness, subject to questions, and as with other professionals the planning board may call cross-examination". He asked Special Planner Wiser if he did more than that. Special Board Planner Wiser stated as he said before he compiled data, statistics, and information. He answered questions.

Attorney Doyle stated he is quoting from a case known as Szoke vs. Zoning Board of Adjustment of the Borough of Monmouth Beach (260 New Jersey Super 341), but before he does so he asked Special Board Planner Wiser it was his belief at end of hearings he would issue a report to help guide the Board to a final recommendation, whichever way that might be. Special Board Planner Wiser stated yes. Attorney Doyle asked if Mr. Miller participate in that effort so that what would go to the board might be more acceptable or more favorable vied whether it was for or against. Special Board Planner Wiser stated Mr. Miller provided data and answers questions.

Attorney Doyle stated the Szoke quote reads as follows "an official disqualified to vote on any measure, for any reason, must observe the substance as well as the form of abstention. It is simply insufficient for him to decline to vote while at the same time he seeks to influence what the vote will be". Attorney Doyle asked if Special Board Planner Wiser is suggesting Mr. Miller's participation was so limited that it was not gage to help the report, influence one way or the other what the Board did. Special Board Planner Wiser stated what he is saying is that Mr. Miller's participation in no way influenced him one way or the other. He indicated what his intention was, Attorney Doyle will have to ask him. Special Board Planner Wiser stated he provided information some of which he used some of which he did not use. He answered questions and facilitated the fact gathering that needed to go into the report.

Attorney Doyle asked if Special Board Planner Wiser is aware he filed an OPRA request for copies of his vouchers in this matter. Special Board Planner Wiser stated absolutely. Attorney Doyle asked if had occasion since he became aware of this to pull them and review them himself. Special Board Planner Wiser stated no. Attorney Doyle asked how did he become aware he requested them. Special Board Planner Wiser stated he believes Special Board Solicitor Marcolongo advised him.

Attorney Doyle asked if he has a copy of them in front of him. Special Board Planner Wiser stated he does not. Special Board Solicitor Marcolongo advised to Attorney Doyle this Board has the duty of report back to the Township Committee as to the impact deannexation on Seaview Harbor and on the remainder of Egg Harbor Township. He asked if we could have some proffer as to what relevance whether Special Board Planner Wiser changed the Township \$6.00 or \$60,000.00 is on their decision. He asked how it's relevant.

Attorney Doyle stated he read The Press reports that it is over \$55,000.00 and counting and that to him is irrelevant. He stated what is relevant is whether the entire process worked in an independent and unbiased way so as to provide an objective report that was not influenced by Mr. Miller's participation. He advised that is a judgement that will have to be made by the Board or otherwise. He noted secondly Special Board Planner Wiser has testified this evening as to the role Mr. Miller played. He stated whether that is a complete statement, not saying it is inaccurate, but a complete statement can only be made in light of an examination of the billing and the numerous times Mr. Miller was involved.

Attorney Doyle stated also by combining those billings, the time spent, the relationship of when that time was spent with witnesses before they testified and the time which was spent with the Township cabinet and tied into the emails between Special Board Planner Wiser, Mr. Simerson, Mr. Miller, Chief Davis, and taking all into account to ensure that the report that the board might ultimately determine was in fact open, independent, objective and was not unduly influenced by Township Committee, the Township Government acting through Mr. Miller, whom had already recused himself and in accordance with case law should not have participated to the degree that he believes from the combination of emails and time records he did.

Attorney Doyle noted it is laying out there and the only way to put a close to it so the board has full confidence in Special Board Planner Wiser and the report is to examine specific areas and have Special Board Planner Wiser comment on them. He stated given the Szoke case, given Mr. Miller's what he believes as seen in the records pervasive affect and participation in combination with all of the witnesses and Special Board Planner Wiser speaking with the witnesses with Mr. Miller before they testify and in some cases after they testified and at least in one case asking them to re-examine the draft of what he was going to say.

Attorney Doyle stated it seems to him what he conceives is an independent; open unbiased report given the participation of someone who has said, I am against it, the Township is against it, and when he, Mr. Miller testified that after 25 years he does not recognize he difference between policy and administration and acknowledged he made a policy statement. Attorney Doyle stated he thinks this taken as a whole leaves the planning board open and he believes they would be better protected to hear this testimony. He advised they can reject it and say no despite this we think it was open but not to hear it he thinks leaves them, the process and all that we have done to a further challenge that he doesn't think either of us would want us to have happen.

Special Board Solicitor Marcolongo stated he is of the opinion the information that the Board has just heard about is not relevant to the ultimate decision the board has to make. However, after hearing the very detail explanation process as to what this information will provide. He leaves it to the Boards discretion. Board Member Aponte stated he hears what Attorney Doyle is saying and what Special Board Solicitor Marcolongo is saying and he is a little torn on whether to admit this or not. Special Board Solicitor Marcolongo stated he is aware of the amount of documents Attorney Doyle wants to go through.

Attorney Doyle stated he provided a proffer as to what he wants to ask in general. He indicated the board could hear a few questions and say enough. He indicated he wouldn't agree but he will move through it quickly. Special Board Solicitor Marcolongo advised the Board will see billing records from Special Board Planner Wisner as to the time he spent doing a certain amount of his investigation. He indicated whether that is going to be helpful to you as to whether he is a slow or fast reader. Freeholder Carman stated it may not be helpful in his decision, to be honest, but he feel you need to put it one, please expedite. Board Member Aponte advised Attorney Doyle that he will be placed on a very short leash.

Attorney Doyle stated the first item is a little unrelated as to what we discussed. Board Member Aponte asked what does he mean unrelated. Attorney Doyle stated he will come back to it. Board Member Aponte stated if it is unrelated do not come back to it at all. He stated if it is unrelated to the decision the Board has to make we are not going to hear it. Attorney Doyle stated ok.

Attorney Doyle on March 28, Special Board Planner Wisner conducted a site visit and a follow-up analysis with the Township administrator for eight (8) hours. He asked what was the subject of this meeting. Special Board Planner Wisner stated Attorney Doyle is making him go back to March, 2014 and try to remember exactly what the site visit. He stated the site visit was the site visit and the follow-up he has no idea. Attorney Doyle asked him he does not know how many hours were spent with Mr. Miller. Special Board Planner Wisner stated he could not tell him. Attorney Doyle asked if he kept field notes. Special Board Planner Wisner stated he has notes that the meetings occurred for time sheet purposes but no.

Attorney Doyle stated he will not ask about the meeting on April 17, 2014 for 4.75 hours because it included Special Board Solicitor Marcolongo. Special Board Planner Wisner stated he can Attorney Doyle if that is bearing on something his recollection is that he never met with Mr. Miller without Special Board Solicitor Marcolongo being present whether it is in his time sheets or not. Attorney Doyle stated understood.

Attorney Doyle stated on April 22, there was an 8 hour meeting, prepare for and attend board professional's project coordination meeting. Attorney Doyle asked whom where the board professionals at the meeting. Special Board Planner Wisner stated he is going to guess it would have been Special Board Solicitor Marcolongo and himself. He stated, however, he does not know for a particular date. Freeholder Carman asked Special Board Planner Wisner not to guess. Special Board Planner Wisner stated yes, he is not going to guess. Attorney Doyle asked him if he does not know if Mr. Simerson was there. Special Board Planner Wisner stated he might have been but on a particular date he is not going to remember who was where on a particular date. He stated he knows himself and Special Board Solicitor Marcolongo met with Mr. Simerson, both police chiefs, any number of the fire chiefs, Mr. Mr. Costello, Dr. Perniciaro.

Attorney Doyle stated on May 8, 2014, attend council meeting regarding redevelopment amendment. He asked if that applied to this case. Special Board Planner Wisner stated this was done in error. Attorney Doyle referred to July 3, Seaview Harbor observation and email three-quarters of an hour. He asked he chased the fire. Special Board Planner Wisner stated he was driving by while it happened. He indicated as he said previously he drives passed Seaview Harbor a lot going from home to his parents. He indicated on this particular day, July 3, and his brothers were born on July 5. He was going to

Heritage Sports Surf Shop to purchase gift cards and he happened to be driving by while it was happening.

Attorney Doyle stated Mr. Stewart and others made observations about Longport being there first, water sources from Seaview Water Company being used to stem the fire. He asked if Special Board Planner Wiser if he personally notice any of this or anything to the contrary. Special Board Planner Wiser stated what he noticed was driving passed going into Longport the fire was ongoing. He stated when he was in surf shop he heard the Margate fire house, which is right across the street from the surf shop, the siren going off. He stated on his way out he saw a couple fire trucks there and whatever is in the email as to what fire trucks were there, he stated he does not remember right now. He indicated he does remember heading out west bound on Route 152 all men and apparatus starting coming in. Attorney Doyle stated you mentioned an email, however, he did not reference one. He does not know what he is talking about. Special Board Planner Wiser stated he sent an email to Special Board Solicitor Marcolongo. Special Board Solicitor Marcolongo advised Attorney Doyle he did mention an email. Attorney Doyle apologized noting he did say email.

Attorney Doyle stated October 28, 2014 he met for 5.75 hours with the department of public works director and Township Administrator. Attorney Doyle asked if this was Mr. Simerson. Special Board Planner Wiser stated yes. Attorney Doyle advised it does not record that Special Board Solicitor Marcolongo was there. Special Board Planner Wiser indicated that Special Board Solicitor Marcolongo was there. Attorney Doyle asked purpose of meeting. Special Board Planner Wiser stated it was to discuss with Mr. Simerson that we believe would be the type of information the board would be interested in and to talk about how he would present and organize the information and present the information to the board and how he would present his testimony. Attorney Doyle stated in lawyer talk you were prepping witness. Special Board Planner Wiser stated planners do not use that language. Attorney Doyle asked if it was accurate. Special Board Planner Wiser stated he would suppose. Not in terms of any negative connotation.

Attorney Doyle stated in the same bill it indicates prepare for and attend meeting with fire chief and Township administrator, October 31. He asked which fire chief. Special Board Planner Wiser stated he is going to guess Chief Danz because he was the first fire chief they met with but without sitting down and looking at calendar he does not know exactly. Attorney Doyle stated again it does not mention Special Solicitor Marcolongo being there. Special Board Planner Wiser stated yes, he was there.

Attorney Doyle stated February 19, 2014 prepare for and attend meeting with police chief. Again, which police chief. Special Board Planner Wiser stated the first meeting, and there were multiple entries with that type of language, the first two (2) meetings would have been with Chief Morris and the third meeting was with Chief Davis. He note all of which Special Board Solicitor Marcolongo was in attendance. Attorney Doyle stated the purpose was to prep the witness or the anticipated witness. Special Board Planner Wiser stated yes.

Attorney Doyle stated on January 12, 2015, attend meeting with police chief and review 9-1-1 call audio, 6 hours. He asked if Special Board Planner Wiser recalls this. Special Board Planner Wiser stated he does. He advised Chief Morris provided an audio of a 9-1-1 call that he cannot find any more so he does not remember what it was for and he did not use it, obviously, in his presentation. He indicated we had a computer change and it never migrated from the old to the new. Attorney Doyle stated Chief Davis testified he received this assignment in April, 2015. Attorney Doyle then advised when he asked Chief Davis about a part of B100, that showed a dispatch screen back in January, he stated Chief Davis

advised yes, he was out on that. Attorney Doyle asked if that was the call. Special Board Planner Wiser stated no. He indicated it may have been the fire.

Board Member Aponte stated when Attorney Doyle made his proffer he was speaking of any connection with Mr. Miller and how he may or may not have, as Attorney Doyle put it, unduly influenced. He asked what does this got to do with the billing records of the police chief that Mr. Miller or anybody else was not on. He indicated he did not hear his name on there. He indicated he believes we are getting into irrelevant territory.

Attorney Doyle asked Special Board Planner Wiser he has omitted Special Board Solicitor Marcolongo's name while he was at meetings. He asked Special Board Planner Wiser if he knows whether Mr. Miller was or was not at these meetings. Special Board Planner Wiser stated his recollection for Mr. Simerson, Mr. Miller was in and out. He stop in, left, came back. Board Member Aponte stated he does not want to go through every bill to see what was done each time. He stated if Attorney Doyle is making his case about what he stated before than please make it. He added the Board understands Attorney Doyle's point.

Attorney Doyle stated to Special Board Planner Wiser that he met with each of the Townships witnesses other than the school board person before they testified did he not. Special Board Planner Wiser stated he knows he did not meet with Mrs. Bechtel so he is going to guess that is probably a correct statement. Attorney Doyle stated Special Board Planner Wiser met with Chief Danz on June 26, 2015 for 3.25 hours. He asked was Mr. Miller at that meeting. Special Board Planner Wiser stated he does not think so. Attorney Doyle asked if he knows one way or the other. Special Board Planner Wiser stated to be fair and honest with Attorney Doyle he is pretty sure he was not but don't know with certainty.

Attorney Doyle asked if Chief Danz was prepared to testify, as he understood it, on the 26<sup>th</sup>. Special Board Planner Wiser asked if Attorney Doyle wants to go there. He stated he cannot tell him if Chief Danz was prepared to testify. He stated we had meetings and we all anticipated he was going to testify. Whether Chief Danz was prepared or not he could not tell him. Attorney Doyle stated July 14, meeting with Chief Davis, process of exhibits for report of findings. He indicated this is two (2) weeks before Chief Davis testified for the first time. He asked what process exhibits for report of findings mean. Special Board Planner Wiser stated his recollection is Chief Davis provided a draft of the power point that he ultimately used and he reviewed it. Attorney Doyle asked if he draft, edited, revised, suggested, or changed it. Special Board Planner Wiser stated not as he recalls. He stated he is pretty sure what we saw, may have been refined on his own because there were holes in the draft because he was still collecting data from his staff, but he does not recall he had any comments. Attorney Doyle stated a 9 hour meeting and he did not have some input. Special Board Planner Wiser stated he does not believe the meeting took 9 hours but it took a while to go through.

Attorney Doyle stated Special Board Planner Wiser meet with Fire Chief's Stauffer and Winkler on August 7 and 12. He asked if anyone was present with him. Special Board Planner Wiser stated yes, Special Board Solicitor Marcolongo.

Attorney Doyle stated for his last question on these vouchers on this particular subject. Special Board Planner Wiser met with witnesses prior to their testimony, heard their testimony, and then at least in Mr. Simerson's case sent email asking for his review of it. Special Board Planner Wiser stated yes. Attorney Doyle asked Special Board Planner Wiser if this comports with what he thinks is independent, open and unbiased. Special Board Planner Wiser stated yes. He indicated Special Board Solicitor

Marcolongo was at all the meetings, which Attorney Doyle indicated was prepping in his words the witnesses, Special Board Planner Wiser stated he is sure Special Board Solicitor Marcolongo would not have let anything happen at these meetings that were anything but even handed and unbiased.

Special Board Solicitor Marcolongo stated he can advise the Board that he asked Special Board Planner Wiser to be at each meeting with every witness that was intended to be called. He stated he believes it is important for those witnesses to know the areas of concerns that have been raised by the Seaview Harbor residents and to ask them to attempt to respond, as best they could, to those concerns. He stated we were able to generally to summarize the testimony the testimony that came out. He advised at no time did they tell them how to testify. He indicated he was just as surprised as everyone here as to what their testimony was because they never heard it before they got there.

Special Board Solicitor Marcolongo continued by advising he did not just want to call up say, Mr. Simerson, and show up on Tuesday night to talk to us. He indicated he did not think that would be effective or help this Board do its job. Special Board Planner Wiser continued to answer Attorney Doyle's advising he had put together what he thought was a review of Mr. Simerson's testimony and he did not have the benefit of any transcript to cross check and he wanted to make sure, though there were a limit amount of questions that he had, that he wanted Mr. Simerson to say this is what he said and in some cases is this what you meant, which he did.

Special Board Planner Wiser stated he knows Attorney Doyle OPRA the emails and Attorney Doyle knows what the response is and looking at that response there is nothing that guided him. There were minor corrections but nothing that would have biased the report in anyway.

Attorney Doyle stated Special Board Solicitor Marcolongo just said that nothing was said specifically about what the presentation would be from each of the witnesses. He indicated that is not an exact quote but Special Board Planner Wiser just testified that you looked at Chief Davis' report in advance and made comments. Special Board Planner Wiser stated he did not make comments. He looked at it but there were no comments to be made based on his recollection. Attorney Doyle asked why Special Board Planner Wiser just sent Mr. Simerson because there were no transcripts for the fire chief's, Mr. Miller, Ms. Bechtel, and Dr. Perniciaro. Special Board Planner Wiser stated he only sent to him because he was the only one he had a question about.

Attorney Doyle then read onto the record a section of email from Special Board Planner Wiser to Mr. Simerson dated July 1<sup>st</sup>, asking a question concerning the miles of road in Egg Harbor Township and with "what I can't recall is why the attorney for the rebels felt this was such a big issue. Do you"? Attorney Doyle stated he takes it that he is the attorney for the rebels. Special Board Planner Wiser stated he was probably being a little glib and he should not have used that phrase. Attorney Doyle stated he does not take umbrage. He asked if it was an analogy to the civil war concerning secession. Special Board Planner Wiser stated during this time it was the 150<sup>th</sup> anniversary of the civil war and he watched a lot television about it and it seep into his email.

Attorney Doyle asked Special Board Planner Wiser what did he finally determine in his report the length of miles and the significance of it. Special Board Planner Wiser stated it speaks for itself. It says what it says. He indicated he did not remember what is in his report for that in terms of numbers. He indicated at the end of the day he is not sure that he even used it.

Attorney Doyle asked Special Board Planner Wiser if Mr. Miller send a 15 to 20 page document citing every planning board subdivision and site plan approval from 2000 to 2015. Special Board Planner Wiser stated he did. Attorney Doyle asked if Special Board Planner Wiser had asked for it. Special Board Planner Wiser stated no. Attorney Doyle asked if it found a way into his report. Special Board Planner Wiser stated no. He did not think it was relevant.

Attorney Doyle asked Special Board Planner Wiser if the petitioners through Mr. Ryan made a point saying we are not going to growth but Egg Harbor Township is and therefore, whatever proportion of the ratables we are it will continue to be reduced. Special Board Planner Wiser stated that was a statement that was made. Attorney Doyle stated in the Avalon Manor case, as well as, others the West Point Island case, the Bay Beach Way case and the Ryan case all of them factually recited that statistic. The proportion of ratables. Special Board Planner Wiser stated ok. Attorney Doyle stated this was something the courts said was meaningful, at least to the degree they reported it. Special Board Planner Wiser stated at different levels.

Attorney Doyle asked the petitioners suggested it was reasonable in this case. He asked why he would not put into what would have been an open, objective, even handed report information that would help sustain the petitioner's proofs. Special Board Planner Wiser stated when he looked at Mr. Miller's information, which was in a matrix format and all he saw cursory was this subdivision, that subdivision. He did not look at in depth but in terms of Attorney Doyle's specific question in the Avalon Manor case the Judge cited background growth should not be factor into the analysis because that would have been growth that was already happening. He indicated that is growth that is already belongs to the Township and it would be unfair and inequitable, which he believes is what the Judge said, for the Township to be spending the growth it already owns to compensate for deannexation.

Attorney Doyle stated that is Special Board Planner Wiser's interpretation is. Special Board Planner Wiser stated this is what the Judge said not an interpretation. Attorney Doyle stated no. He advised the Judge said one year/one shot such as sale of liquor licenses, sale of properties. Special Board Planner Wiser stated he does not have it with him, however, he believes it went beyond this. He was pretty sure he was referring to growth in ratables beyond those one shots. Attorney Doyle asked if it was spoken in the Bay Beach Way case. Special Board Planner Wiser stated he does not recall. Attorney Doyle asked but Special Board Planner Wiser did not look at the report in depth. Special Board Planner Wiser asked Mr. Miller's report. Attorney Doyle stated yes. Special Board Planner Wiser stated frankly that came among a flurry other things that Mr. Miller sent unsolicited that he simply filed away.

Special Board Solicitor Marcolongo stated for the record Special Board Planner Wiser did comment on that particular issue on page 230 of the report where it says "given the growth potential of the Township and lack of such potential in Seaview Harbor, such percentage will decrease over time". So he did comment about it within the report. Special Board Solicitor Marcolongo stated it was not like Special Board Planner Wiser had ignored it. He stated Attorney Doyle was suggesting that Special Board Planner Wiser was completely ignoring the topic which he believes is an important criteria for the Board to consider. Special Board Solicitor Marcolongo stated it is in the report. Attorney Doyle stated not to the reference of the 600 and some homes that have been or will be built.

Special Board Solicitor Marcolongo stated Special Board Planner Wiser did not get into that detail. Special Board Planner Wiser added that this board is well aware of the background growth in the Township outside of Seaview Harbor because they approved it all. Attorney Doyle stated he understands this. He indicated that is where you have to go with a subdivision or a site plan.

Attorney Doyle stated in a few emails Mr. Miller said in affect here is information, pick what you will of it and he will take the rest. Special Board Planner Wiser stated ok. Attorney Doyle asked if he recalls these. Special Board Planner Wiser stated yes. Attorney Doyle stated in one email Special Board Planner Wiser email Mr. Miller one morning after a meeting was held. It said I did not see you at the library last night. Attorney Doyle asked what is the library. Special Board Planner Wiser stated it is a local waterhole. Attorney Doyle asked if he and Mr. Miller and others would go there regularly after meetings. Special Board Planner Wiser stated irregularly but yes. Attorney Doyle asked whom were the others. Special Board Planner Wiser stated Special Board Solicitor Marcolongo, Mr. Rosenberg and that is pretty much it. Attorney Doyle asked what about any of the witnesses that have testified. Special Board Planner Wiser stated no.

Attorney Doyle advised he is referring to another email dated May 2 to Mr. Miller from Special Board Planner Wiser stating "am I correct where the money comes out of taxes but only 55% is funded through taxes. Does he recall this. Special Board Planner Wiser stated no specifically no. Attorney Doyle asked Special Board Planner Wiser in Strathmere, which is the only case you were involved in that was decided, his role there is similar to his role here. Special Board Planner Wiser stated yes. Attorney Doyle asked perhaps identical. Special Board Planner Wiser stated overwhelmingly similar. He stated he does not know it is identical because we are not done here.

Attorney Doyle state Strathmere is done. It was a coastal community. Special Board Planner Wiser stated it still is. Attorney Doyle he indicated in that sense similar to Seaview Harbor's location. Special Board Planner Wiser stated similar, not the same. Attorney Doyle asked Special Board Planner Wiser if he approached that case the same way as this case. Special Board Planner Wiser stated he guesses so. Attorney Doyle stated in that case you similarly advised the Board in your report, prior to their decision, what the legal standards were and it was done in five (5) pages citing no cases, but in this matter it was done in some 41 pages and citing every case you could find on deannexation. He asked why the difference.

Special Board Planner Wiser stated he did not do a report in Strathmere. He stated Attorney Doyle keeps saying that. Attorney Doyle asked Special Board Planner Wiser that he did findings, did he not. Special Board Planner Wiser stated he did a power point presentation. He indicated that particular Board did not choose to have a written report. They wanted a power point presentation summary. He stated the given nature of a power point he does not know how many pages it was and frankly the only thing that he does remember is that those two (2) poster boards that are in front last night and today, are not physically the same boards but the same content as to what he did for Strathmere. Again, noting he did not do a report for Strathmere.

Attorney Doyle stated to his recollection when he began his cross-examination for every one of the witnesses that testified from the Township other than Ms. Bechtel and Mr. Miller. He asked them two (2) questions "how did you come to testify here tonight" and each one stated Mr. Miller had asked them. He asked Special Board Planner Wiser if he has a different recollection. Special Board Planner Wiser stated he has no recollection at all. He stated the names of the individuals he thinks he got from Special Board Solicitor Marcolongo. He stated so whatever coordination he was advised after the effect. Attorney Doyle stated he asked all of them and they said Mr. Miller. He asked Special Board Planner Wiser if he had asked anyone. Special Board Planner Wiser stated he did not, no. He then indicated he would like to take a step back. He advised he did reached out to Dr. Perniciaro.

Attorney Doyle stated the second question was did anyone help prepare your report or work with you on the report. He stated no one mentioned Special Board Planner Wisner. He asked if Special Board Planner Wisner recalls the question. Special Board Planner Wisner stated not specifically in each instance but he will accept Attorney Doyle asked the question and whatever the answer is the answer is. He indicated this really goes to fact that he did not help them prepare their testimony. He indicated we sat there and guided them in terms of issue we thought the Board find helpful but we did not prepare their testimony for them or coach them per say.

Attorney Doyle stated that is rather a narrow line. He asked could he not have just as easily faxed or emailed them the areas of concern. Special Board Solicitor Marcolongo stated he was coordinating this so it would have been his choice. Attorney Doyle asked Special Board Planner Wisner that at every one of these meetings that you have prior to a witness testifying Special Board Solicitor Marcolongo was present. Special Board Planner Wisner stated that is his recollection. He indicated there may have been one meeting with one (1) of the various fire chief's where it was a pick-up of some documentation but not a substantive meeting.

Attorney Doyle stated in Strathmere there was, what he calls, a report of findings but were actually a compilation of screen shots of a power point presentation. There was no written presentation. Special Board Planner Wisner stated this is correct. Attorney Doyle asked he did testify under oath. Special Board Planner Wisner stated yes.

Attorney Doyle then read onto the record a statement from Special Board Planner Wisner from the Strathmere case. After the reading he asked Special Board Planner Wisner if this is how he saw the process the petitioners was one side and who was the other side. Special Board Planner Wisner stated the way the room was setup, unlike what we have here, there was a table that he and Special Board Solicitor Marcolongo sat at, the Board, and on the other side of the room was a table where the attorney for the petitioners and the various witnesses at that time were sitting at. He indicated there was one side and other.

Attorney Doyle stated to Special Board Planner Wisner he would appreciate the other side might mean the other side of the aisle, D & R's, pro's and con's, etc.. so it is just the physical make-up of the room. Special Board Planner Wisner stated he does not even remember writing or saying it.

Attorney Doyle advised in the Strathmere case, having counted, there were 17 people that spoke against deannexation. He asked when Special Board Planner Wisner prepared his matrix and pro's and con's this figured into it. That there was some vocal opposition. He added one person was allowed to speak three (3) times. Special Board Planner Wisner stated there were a lot of people that were allowed to speak many times during that hearing. He indicated does not know or recall the number. Attorney Doyle stated it is different than the one that testified here. Special Board Planner Wisner stated probably, certainly, yes.

Attorney Doyle than read into the record additional information from the Strathmere case concerning geographic boundaries from a planning perspective. Attorney Doyle than asked Special Board Planner Wisner if he agrees with the information he just read in this case. Special Board Planner Wisner stated in that particular instance, if memory serves, you had a barrier island, Sea Isle City and Strathmere on the same barrier island. He stated again if memory serves the planner for the petitioner's was trying to make a point that look here is a nice barrier island and it should all be the same town. He indicated he does not think we have that situation here so he doesn't know that it is apples to apples.

Attorney Doyle asked if Special Board Planner Wisner thought here or there that the manner of deannexation is just how the area seeking deannexation is managed or is there more to it. Special Board Planner Wisner stated the courts have advised what to think on this matter. He indicated he is not really sure management has been talked about it. He stated it is the impact on folks in the area on that wishes to leave a town and the impact upon the town assuming deannexation would occur. Attorney Doyle stated Special Board Planner Wisner provided this testimony on January 22, 2009, which by then he was living in Egg Harbor Township.

Attorney Doyle continued to read from onto the record testimony provided by Special Board Planner Wisner from the Strathmere case. In this instance about barrier islands being their own towns, separate independent municipalities separate from the mainland with a few exceptions. Attorney Doyle asked that is not their situation here. He indicated they are not their own independent municipality even though they are separated from the mainland. Special Board Planner Wisner stated neither was Strathmere.

Attorney Doyle continued again to read information onto the record from the Strathmere case with respect to Special Board Planner Wisner statement concerning in planning theory that Upper Township could not manage an island section appropriate and well. Special Board Planner Wisner stated if this is what he said; that is what he said. Attorney Doyle stated he spoke to management. Special Board Planner Wisner stated because, his recollection was, one of the allegations was, without litigating the matter over again, the Township could not manage Strathmere. He advised in that case the statement speaks for itself.

Attorney Doyle continued reading onto the record sections of the Strathmere case. He stated Special Board Planner Wisner noted managing the island just like Egg Harbor Township that have sections of it totally disjointed there is West of Atlantic City. He asked Special Board Planner Wisner if he recalls this testimony. Special Board Planner Wisner stated he does not but accepts it is there. Attorney Doyle continued with the Strathmere case information: and there is the area that is right near coming off the island you go through Longport and Somers Point and that is all Egg Harbor Township. Attorney Doyle stated that in part is the area in this petition. Special Board Planner Wisner stated yes.

Attorney Doyle stated Special Board Planner Wisner when on to say it is managed well, not to say there are not problems, there are problems everywhere. There are other disjointed section of municipalities, it happens, it doesn't mean it is bad doesn't mean it is good it all depends on how things are managed. Attorney Doyle asked Special Board Planner is this not a preconceived notion of what he felt the ability or propriety of this very section.

Special Board Planner Wisner stated to Attorney Doyle until he read this information he did not remember saying, to this day, having heard it he does not remember saying it. He advised it may have been something he may have put into a presentation that he made seven (7) or eight (8) years ago. He indicated he does not remember saying it and it was never in his and something said a number of years and never in his mind going through this process. He indicated he simply does not recall it so it would not have biased him in any way.

Attorney Doyle asked if he felt back then as a resident of Egg Harbor Township why should they expect him to think any different now. Special Board Planner Wisner stated he does not remember feeling that, he does not remember anything about what he is saying and he is a professional. He indicated he is a

professional planner. He took information presented by the petitioners here and by the Township representatives here, and by others here. He stated he synthesized them and came up with a series of recommendations for the board, which they can or cannot agree with. He advised frankly sitting here tonight he does not know why he included the Egg Harbor Township piece in the Strathmere presentation. Attorney Doyle stated he understands.

Attorney Doyle stated in this transcript that he has been reading from Special Board Planner Wiser in pages 99 – 100 used the Municipal Land Use Law was applicable for looking at financial impacts involved in a deannexation petition. He stated when Planner Cuvillo used in her report looked at the Municipal Land Use Law as reason for her conclusion. Special Board Planner Wiser stated deannexation was total separate and should not play a part in a planning opinion about the propriety of deannexation in a particular case. He asked what that not his testimony here. Special Board Planner Wiser stated yes.

Attorney Doyle stated within Special Board Planners testimony in the Strathmere case he discusses the undertaking of a fiscal analysis, as ruled by the courts, and how it relates to the municipal master plan. Attorney Doyle went on to add he provided purposes to the reasoning during the testimony. Attorney Doyle asked Special Board Planner Wiser why financial impacts are appropriate with the Strathmere case but when Ms. Cuvillo testifies to this case it all of sudden is not appropriate.

Special Board Planner Wiser stated that is a good question. He indicated he would like to see the quote. Attorney Doyle presented the transcript he has been reading from (Strathmere case). After review Special Board Planner Wiser stated he does not see where Attorney Doyle is pointing to. Attorney Doyle physically showed Special Board Planner Wiser the statements concerning the Municipal Land Use Law. Attorney Doyle stated what Special Board Planner Wiser is reviewing is transcript 15 of 19, pages 99 - 102 in which Special Board Planner Wiser is testifying concerning the Planning report submitted by the petitioner's planner, Bach Associates.

Attorney Doyle stated by way of summary as Special Board Planner Wiser is reading. He was commenting about the lack of fiscal impact being given by the petitioners. He then went on to ask Special Board Planner Wiser that fiscal impact is a part and should be part of the petitioner's case because fiscal impact is important under the deannexation law and it is a planning tool citing the Municipal Land Use Law. Special Board Planner Wiser stated his recollection in terms of Strathmere was that there was no fiscal impact analysis given at all. He stated as we see case law the economic wellbeing needs to be addressed as part of the fiscal. He stated this is his recollection and what he was referring to.

Attorney Doyle asked did he not suggest Ms. Cuvillo was wrong in this case. Special Board Planner Wiser stated he did. Attorney Doyle asked if this is different than what he said. Special Board Planner Wiser stated it is different and the only thing he call tell Attorney Doyle is that his thinking has apparently evolved, stating in part probably from his experience with the law coming out of Strathmere.

Attorney Doyle stated Special Board Planner Wiser had mentioned Strathmere's water front is a precious resource and the Township focuses efforts on mainland recreation. He indicated Special Board Planner Wiser went on advising there was free parking and the report pointed out they had a public beach, free parking, sensitive environmental area, that Upper Township's young people were part of the beach patrol. He asked none of those factors are in this case. He stated there is no public property, no public recreation, no free parking. Special Board Planner Wiser stated that is correct. He advised somewhere in his report he noted the public amenity is the restaurant.

Attorney Doyle stated Special Board Planner Wisner's testimony continued to a subsequent meeting and you indicated the people in Strathmere said that they really had all their social connections with Sea Isle City. Attorney Doyle stated is this not the substance of a portion of the proofs the petitioners have put forth. Special Board Planner Wisner stated that is the assertions that were made, correct. Attorney Doyle stated similar to the assertions made here that the Seaview Harbor residents have their nexus on a social basis, plus more, with Longport than Egg Harbor Township. Special Board Planner Wisner stated that is what the assertion. Attorney Doyle stated the assertion there you said it will can continue to be deannexation will not stop it and on this one you have been consistent that is what you are saying here. He asked if this is what his report says. Special Board Planner Wisner stated that most of the items point to will not change. Attorney Doyle stated so deannexation does not add anything. Special Board Planner Wisner stated things will not change.

Attorney Doyle stated there were comments too where there not in Strathmere that people in the past hadn't been paying much attention to them and they had not been listened to in years. Special Board Planner Wisner stated that was their contention. Attorney Doyle asked it is a contention here isn't it. Special Board Planner Wisner stated yes.

Attorney Doyle than read from a section of the transcript from the Strathmere case concerning past history and regulations and how Special Board Planner Wisner noted whatever the ill wills of the past it is the folks in charge now and the issues facing us currently. Attorney Doyle stated given the testimony there why such a strong reliance, as did Mr. Miller coincidentally or not, as to who was on the Boards in the 1980's, 1990's, 2000's in this case. Special Board Planner Wisner asked Attorney Doyle to rephrase question, which he did. Special Board Planner Wisner stated he does not remember the specifics of the Strathmere case and why he said what he said. He stated here there were assertions that the Township ignored from a planning perspective, Seaview Harbor and he does not find that credible given the number of Seaview Harbor residents who participated historically and that the Township from a planning perspective ignored Seaview Harbor given the number and breath of Seaview Harbor residents that were in decision making capacities over the course of time. He stated he does not remember the specific as it relates to Strathmere to draw a comparison.

Special Board Solicitor Marcolongo stated if he may. The reason it may not be brought up and he has been in Upper Township since the 1980's there was no representation throughout since he has been there. Attorney Doyle stated Special Board Solicitor Marcolongo is testifying and recalling for Special Board Planner Wisner.

Attorney Doyle again read from transcript noting comments from Special Board Planner Wisner with respect to disconnection due to geographical disconnection with respect to clammer's versus farmers. Attorney Doyle stated this could apply here with the mainlander's versus shore residents. Could he not. Special Board Planner Wisner stated he thinks he acknowledged this in his report. Attorney Doyle stated there you indicated looking to the future each group accepting an open mind could learn from the other. He asked how do you learn from the other when you do not interact with at all in your daily life, at clubs/organizations, schools, where you go, what you do, who you know.

Special Board Planner Wisner stated to Attorney Doyle that he would know this as well, you broaden your horizons. He stated you go and experience other things. You go to a fire house spaghetti dinner and you meet your other Township neighbors. You do the same things going west, he would imagine, that the petitioners say they do going east.

Attorney Doyle asked what about the Township. He stated Special Board Planner Wiser is a Township resident has he ever tried to diversify his social being by doing anything or seeking out any body in Seaview Harbor. Special Board Planner Wiser stated he has eaten at the restaurant a number of times. He has walked the docks. Attorney Doyle stated when you speak of the restaurant you speak of Café Luciano's, who Mr. Levy, when he was sitting on this Board identified as does the New Jersey Monthly magazine as being in Longport. Special Board Planner Wiser stated incorrectly in Longport. Attorney Doyle noted that is part of the confusion. Special Board Planner Wiser stated it would be easily correct if someone called New Jersey Monthly and tell them where the restaurant is.

Attorney Doyle asked if the restaurant wants to be known as being in Egg Harbor Township. He asked does Special Board Planner Wiser think people will find it if they think it is in Egg Harbor Township. Special Board Planner Wiser stated he would think that restaurant would agree to be advertised on the moon if they thought it would bring in people. But he is not going to speak for the owner of the restaurant. He indicated he has eaten at the restaurant going as far back as when it was known as Big Tuna and he has walked the docks and marveled at the big boats. He indicated so yes he has been there. He stated he has not reached out to any individuals because he did not know anyone other than Sharon and Billy. Attorney Doyle advised both whom have testified on behalf of the petition. Special Board Planner Wiser stated yes.

Attorney Doyle asked Special Board Planner Wiser he thinks distance has something to do with this. With the lack of interaction. Special Board Planner Wiser stated it is not that far. Special Board Planner Wiser asked what can one do to make social diversity happen. Special Board Planner Wiser stated he does not think you can make social diversity happen. He stated it has to come from people on all sides having an open mind and people reaching out to their neighbors. Attorney Doyle stated for 30 years and from when Mr. McCullough said he told people he lived in Longport that has not changed. He asked why does he have any sense that it will in the future.

Special Board Planner Wiser stated Attorney Doyle brought up a very good point, with Mayor McCullough, who is elected at large. He stated he is not getting elected on the strength of his Seaview Harbor neighbors. Attorney Doyle asked because we have 90 voters out of 15,000. Special Board Planner Wiser stated there are 92 homeowners. He is not sure how many voters. Attorney Doyle stated a little over 100. Special Board Planner Wiser stated clearly the strength of that will not get him elected.

Attorney Doyle stated Special Board Planner Wiser concluded within his testimony, again reading from the Strathmere case transcript, describing that the political tradition provides the right to petition and redress for grievances. He asked if this is what they are doing here. Special Board Planner Wiser stated sure. Attorney Doyle asked if this is a constitutional right and protect and something the law allows to proceed and is entitled to substantive due process. Special Board Planner Wiser stated this is what we are doing here. Attorney Doyle asked but doing it and always being turned down is what occurs than is the right to petition a sham. Special Board Planner Wiser stated that predisposes that someone is always being turned down. He indicated there is nothing in the record that shows Seaview Harbor residents are always being turned down. He stated he believes it is the contrary. He advised when grievances are aired maybe not 100% of the time and maybe not 100% petitioners wishes the Township tries hard to work to resolve those issues.

Attorney Doyle asked what issues does he believe they worked real hard. Special Board Planner Wiser stated he will withdraw the real hard comment but he indicated we will start with the language on the recreation portion of the website that led people to believe second homeowners were not permitted to

participate in the recreation programs, Mr. Simerson helping out with demolition, reconstruction or reconfiguration of the center island going into the community, the traffic light at Hospitality and Route 152, providing sewer into the neighborhood. Attorney Doyle stated in as far as providing sewer it was shown in the proofs and Mr. Ryan testified to as no decent the sewer was paid for the by the citizens behind him, their neighbors and predecessors. Special Board Planner Wiser stated yes, however, it is his understanding the Township put the program together so the cost of the construction would be much less if the community tried themselves. Attorney Doyle stated is this not a local improvement project that in which only the Town could put it together and in which not only the citizens paid for the engineering but in this case paid a 20% add on for administrative fees. Special Board Planner Wiser stated he does not know. He indicated he does not believe that level of detail is in the record.

Attorney Doyle stated the traffic light is a matter of traffic safety that happens to be there on a State Highway, which only happened after the State found the warrants. Special Board Planner Wiser stated after the Township had submitted over and over again traffic studies to prove those warrants because they were denied and finally accepted. Attorney Doyle stated the warrants are proven by the numbers not by the Township efforts. Special Board Planner Wiser stated the Township could have said we are not doing it at all, they could have said after the first time the warrants are not there so we are going to let it go or even after the second time they could have said warrants are not there we are going to let it go. He stated but they kept at it until the improvements were made and he is sure the pressure applied by Seaview Harbor had something to do with it.

Attorney Doyle stated the pressure from Seaview Harbor did not change the number of accidents or traffic counts did it. Special Board Planner Wiser stated no but it pressed the issue in terms of continuing efforts of the Township over and over again. Attorney Doyle asked if the rights of petition equal to any other right. He asked if it is equal to the right of independence or secession. Special Board Planner Wiser asked if we are arguing the Declaration of Independence versus the Civil War. Attorney Doyle stated we are not arguing anything. He then read onto the record statements again from the Strathmere transcript he had previously noted. This section discussed working through grievances collectively and not leave. Attorney Doyle stated from this information it sounds like a person is committed to the idea everyone should stay together and secession, as a matter of principal, is not appropriate. He asked if he read this wrong.

Special Board Planner Wiser stated he believes Attorney Doyle is way over stating. He indicated it is his understanding there is a public policy that is established by the legislature and upheld by the court that stress the maintenance of municipal boundaries and cases need to be made as to why boundary realignments or secession is approved. He stated in that case he did not feel they made their case. He advised in this case Attorney Doyle heard what he thought last night. He advised Attorney Doyle did not sit through those hearings. Attorney Doyle stated no he did not. Special Board Planner Wiser did.

Attorney Doyle stated in that case and again, yesterday, in this case Special Board Planner Wiser advised the Board is required to give a recommendation. He asked if there is any stator language that says they are required to give a recommendation. Special Board Planner Wiser stated he believes so. Attorney Doyle stated does it only say the Board is to give a report on the impact deannexation would have on the municipality. Special Board Solicitor Marcolongo stated he would agree with Attorney Doyle there is no statutory requirement of a recommendation. Special Board Planner Wiser stated he stands corrected, if he has misrepresented this.

Attorney Doyle stated this begs the question to the degree that Special Board Solicitor Marcolongo just spoke about what the law is and is to counsel the Board on the law and to guide them upon his legal training. Why then did Special Board Planner Wiser go through 41 pages of doing lawyer work that you didn't do in that case but did here. Special Board Planner Wiser stated he did not do a report in that case. He indicated he disagrees he is doing lawyer work. He stated he thinks part of what he is doing believes in terms of laying out the law is providing the frame work for the Board to make their findings and decision. He stated in the Strathmere case Judge Armstrong specifically agreed it was appropriate for the Board to look at judicial review portion of the deannexation statute in order to guide its inquiry. He advised that was in direct response, he believes, to his interpretation of the case law for that Board. He indicated this is what planner's do.

Special Board Planner Wiser stated he believes Attorney Doyle has done, did, and does a number of Land Use cases and he asked if Attorney Doyle would have any faith in a planner that did not know Medici, did not know how to apply the Sica balancing test, or Loechner. He stated this is what planners do. He advised he understands some lawyers think we step on your toes, however, but then again he stated he is sure Attorney Doyle has practiced a little planning in his career.

Attorney Doyle stated in his career he has had the benefit of representing several municipalities, a number of boards, as well as, applicants and objectors. He indicated to Special Board Planner Wiser on the other hand has represented only public entities and worked for a company that only represents public entities and the whole mind frame when asked if he would represent the deannexation petitioners said the firm would probably not allow it. So to the degree that he has that experience on both sides, is it not fair to say, you come to your profession, your planner profession, as well as you do it, but always on the side of the public entity, which for our part, as it has seemed to come to us, is frankly the other side.

Special Board Planner Wiser stated no he does not agree. He stated on a number of admittedly limited occasions where he had the opportunity to represent a private client he used the expertise and the knowledge that he has of the public sector side to try to assist his private client in applications that the government of that particular town was not in favor of. He stated so no he does not accept that premise. Attorney Doyle stated those private client cases, based on what was said previously are few, far between and not recently. Special Board Planner Wiser stated that is correct but it does not change the facts.

Attorney Doyle stated he will leave Strathmere and come to Egg Harbor Township. He stated on the subject of legal and why the subject matter has been removed to the Township Committee. When did you come to conclusion that the petition in this matter was invalid due to the lack of continuity and specificity? Special Board Solicitor Marcolongo stated he does not think it is appropriate to hear this line of questioning and testimony. He indicated at Attorney Doyle's suggestion, at his insistence, this whole area in his opinion not the jurisdiction of this board. He indicated we have taken it out, put it aside and let Township Committee deal with it. Board Member Aponte asked if this is the 2.1 through 2.13 (report of findings). Special Board Solicitor Marcolongo stated yes. He indicated he has no problem with this line of questioning occurring at the time of Township Committee Meetings or hearings, if it ever happens, but to question at this point he does not think is relevant and would cause the entire area to be opened up and he does not think Attorney Doyle wants that.

Attorney Doyle stated he does not ask to open it up and he does not speak to the substance of the matter. He indicated he did not expect this hearing to go on as long and for that I tried to particularly

under the chairman's urging with the emails and time records to move through it quickly. He stated he thought the Strathmere was appropriate. He stated each of those cases as has his questions did not doubt Special Board Planner's Wisers background, his experience, or professionalism in general. He stated what it had to do was the specifics with which he attacked this particular matter with so much greater significance and change and difference than how Strathmere was attacked, albeit, on a relatively similar geographical setting, a relatively, as seen in the excerpts you heard, similar arguments but perhaps lesser or more was asked of him from the client there. He stated he does not think Upper has an administrator for instance.

Attorney Doyle stated the issue as he suggested before was whether there was a preconception or an energy displayed that was single-minded against the petitioners. He indicated it doesn't deal with the substance it deals with the weight that should be given in light of what he believes is this single-mindedness. He stated with respect to the map issue Special Board Solicitor Marcolongo is right. We have had three (3) conversations. We spoke to it. Attorney Doyle stated he had his point as to, it is outside the bounds of the planning board. He indicated the Township Committee received the petition on the 18<sup>th</sup> and sent it to the board on the 27<sup>th</sup>. He advised Special Board Solicitor Marcolongo put into evidence Exhibit S2 saying the petition is correct. He stated now we find out two (2) years later that the planner has suggested, what to him is a legal conclusion, the petition is invalid.

Attorney Doyle stated not asking Special Board Planner Wiser what is in the 20 some pages. He indicated he is just asking for both the boards benefit and his what the heck took so long. Attorney Doyle noted the vouchers indicate he had the GIS maps back in March and he believes it is an appropriate question for them to understand why know. He indicated why now when everything is in. He indicated if you look at the vouchers there is over 200 hours put in of writing the report. He indicated he would like to know when it was done. He stated we could have fixed it but saving it to the end he is sure the board could appreciate the possibility of that being a strategy. He indicated it is one question, one answer, when did you come to that conclusion. He indicated he does not know why he cannot find this out.

Special Board Solicitor Marcolongo stated if the board knows nothing of this topic, other than obviously what Attorney Doyle has read, why does Attorney Doyle need to know that information now. Board Member Aponte stated on the last the board had went against Special Board Solicitor Marcolongo's said, but on this one if we are not reading it, not taking it into consideration for this petition, then he believes we should not go there. Board Member Aponte stated to Attorney Doyle you will still have a bite of the apple and you will still have a chance to talk about it with Township Committee but in this case he believes we should move on.

Attorney Doyle stated he does not want to be repetitious but there are two things that must be synchronized. He advised one is the report itself in which he has notes and the other concerns what was said last night, which for the most part was the same, but occasional different. He stated he will gladly start the process.

Attorney Doyle referred to 1.0, stating Egg Harbor Township is approximately 74.9 square mile, however, the Township's web site states it is 66 square miles. He asked if they know less or more than Special Board Planner Wiser or who is wrong or right. Special Board Planner Wiser stated he does not know, but he is going to guess it is water versus land. He indicated he does not remember specifically where he got that. He advised he does believe it conforms closely with Ms. Cuvillo's, if he is not mistaken, but he does not remember.

Attorney Doyle stated geographically the Township is divided into a mainland section that was a term used that Mr. Miller eschewed. Special Board Planner Wiser stated whether Mr. Miller agrees with the term or not your presentation has talked about the mainland versus Seaview Harbor and it seems rather reasonable to him. Attorney Doyle stated West Atlantic City is characterized by small motels and limited commercial uses along the Black Horse Pike and modest, mostly post war homes to the South of the roadway. Attorney Doyle stated are there not a number, on the south of the roadway, in all the streets with foreign capitals and exotic city names water front homes. Special Board Planner Wiser stated along the water front and the water front is along Lakes Bay he stated he does not know.

Attorney Doyle asked if there is dozens. Special Board Planner Wiser stated probably not dozen(s) but he does not know. There are some. Attorney Doyle stated he discusses this because Special Board Planner Wiser indicates Seaview Harbor is unique and Mr. Miller had in his report some 17 marinas were one of them and FEMA's chart shows some 800+ plus water front homes. So there are other water front areas, water front homes, and other marinas throughout Egg Harbor Township is there not. Special Board Planner Wiser stated yes, but he added Attorney Doyle's clients kept telling us how unique their community is.

Attorney Doyle stated Special Board Planner Wiser agreed with them but he stated the uniqueness is the reason why you should stay with us. Attorney Doyle stated moving on to Page 2 (report of findings) Special Board Planner Wiser referred to Anchorage Poynte as a largely seasonal residential community with a marina and restaurant. He asked Special Board Planner Wiser if the restaurant is still operation. Special Board Planner Wiser stated off and on, yes, it is a barbeque restaurant. Attorney Doyle asked if the marina is operating. Special Board Planner Wiser stated it is there. Obviously it is not operating now.

Attorney Doyle asked Special Board Planner Wiser what statistics or demographics did you use to say it was a largely seasonal residential community. Attorney Doyle asked if he did a survey out there. Special Board Planner Wiser stated he believes there were comments in the record about that. Attorney Doyle asked from whom. Special Board Planner Wiser stated he does not remember. Attorney Doyle asked if Special Board Planner Wiser just accepted some unknown person because they said it was that it is true. Special Board Planner Wiser stated it would not be an unknown person if they testified to it here but he cannot remember who it was.

Attorney Doyle stated Special Board Planner Wiser described Seaview Harbor as a mixed year round, seasonal residential community with a marina and restaurant. He asked what the difference is between a largely seasonal residential and a mixed year round seasonal. Special Board Planner Wiser stated his sense of it was there were full time residents as a group than in Anchorage Poynte. Attorney Doyle asked which one had more year round. Special Board Planner Wiser stated his sense of it was that Seaview Harbor had more year round. Attorney Doyle asked from what sources, personal observation, studies, statistics did you draw that conclusion. Special Board Planner Wiser stated he does not remember.

Attorney Doyle asked if there is any inhabited land closer to the Egg Harbor Township-Longport boundary, found south of Seaview Harbor, than Seaview Harbor. Special Board Planner Wiser stated if he understands the question it would be from the restaurant portion of Seaview Harbor towards the old Dunes site (traffic light). Attorney Doyle referred to report graphic #4 is the dotted or striped line that runs through the water and is perpendicular to the J.F.K. Bridge the perceived boundary between Egg Harbor Township and Longport. Special Board Planner Wiser stated that is the mapped boundary from

the Department of Environment Protection. Attorney Doyle asked if that mapped boundary based on any statute. Special Board Planner Wisner stated he has asked our surveyor's that question and no one has an answer. He indicated the map boundary is what everyone accepts as the Department of Environmental Protection or the States boundary. Attorney Doyle asked the State of New Jersey. Special Board Planner Wisner stated the Department of Environmental Protection of the State of New Jersey provides a number of GIS coverages or shape files and one of them includes an outbound boundary of all municipalities. He indicated this is where it comes from.

Attorney Doyle stated the reference he made earlier to the GIS that you obtained in March and there are emails from you stating you obtained some in April. He asked if there is any other GIS obtained after the March/April period. Special Board Planner Wisner stated he is not sure about dates but the State of New Jersey has a website the New Jersey Information Warehouse or the Geographic Warehouse, which is a website that has all manner of GIS coverage or GIS layers. He indicated this is the layer provided by the State of New Jersey that shows municipal outbounds. Attorney Doyle asked if Special Board Planner Wisner has received any GIS maps since April 14<sup>th</sup>. Special Board Planner Wisner stated he does not know. He stated if he did it wouldn't have been from the Township it would have been from the States websites.

Attorney Doyle asked if Special Board Planner Wisner is familiar with any metes and bounds, survey like, descriptions of municipal boundaries. Special Board Planner Wisner stated he asked his chief of survey and he said they do not exist. Attorney Doyle asked when you say "our" are you talking the Township, the planning board. Special Board Planner Wisner stated Remington and Vernick's chief of survey who is past president of the States Surveyor's Association. He indicated he is the resource he went to. He asked if there were any metes and bounds, is there anything absolutely definitive and he said no this is what is there.

Attorney Doyle referred to Page 4, he stated Special Board Planner Wisner indicated that on February 18, 2014 the petition was referred to the Egg Harbor Township Planning Board. He asked how he got this date, which is inaccurate. Special Board Planner Wisner stated it was the date of the memorandum from the Clerk over to the Board Attorney Doyle stated exhibit S2 is dated February 27<sup>th</sup>. Special Board Planner Wisner stated he would agree. He stated the petition came in on February 18<sup>th</sup> and it took a few days before Township Committee referred to the Board and he agrees with Attorney Doyle he believes it is marked as Exhibit S2. Special Board Planner Wisner stated that this is an error. Board Member Aponte stated then the date in 1.2 is not correct. Special Board Planner Wisner stated in the second paragraph is the referral. Board Member Aponte stated it should be February 27, 2014.

Attorney Doyle stated in this same paragraph it states the Board is to review and issuance of an impact report on the proposed deannexation from the municipality. He stated it does not say anything about its impact on Seaview Harbor residents, the petitioners. Special Board Planner Wisner stated not that particular paragraph does not. Attorney Doyle stated neither does the statute does it. Special Board Planner Wisner stated no it is case law. Attorney Doyle asked does not the statute govern. Special Board Planner Wisner stated to Attorney Doyle he will object if he practices law, but clearly the case law sets up the standard for review.

Special Board Solicitor Marcolongo stated just to fill in that blank. The letter from Ms. Tedesco to Ms. Wilbert forwarding was March 3, 2014. Board Member Aponte stated not February 27<sup>th</sup>. Attorney Doyle asked to see. Attorney Doyle stated he apologizes. He advised the letter he received that it would be sent February 27<sup>th</sup> and that is Exhibit S2. He advised this (Tedesco/Wilbert) is not in evidence.

Attorney Doyle stated the letter Special Board Solicitor Marcolongo states upon receipt you will have 45 days to review and then submit your report along with your findings to the Township Committee. It does not say they have to make a recommendation one way or another. Special Board Planner Wisner stated he believed we went over this. Attorney Doyle stated o.k. He further noted he sees copies went to the Mayor, the Township Committee, Mr. Miller, and Mr. Friedman the Township Solicitor.

Attorney Doyle stated Special Board Planner Wisner mentioned that the planning board determined in the interest of fairness and justice that public hearings would be held. He advised this was not hard decision it has been done this way in every case hasn't it. That hearings were conducted. Special Board Planner Wisner stated he does not know how they make their decision.

Attorney Doyle referred to Page 5, he then read into the record the first paragraph of this page, thereafter, noting it still is to conduct themselves quasi-judicial tribunal with all the rights of openness and due process. Special Board Planner Wisner stated but they are not making a decision. They are making a recommendation. Attorney Doyle stated in that sense it is different. Special Board Planner Wisner stated yes.

Attorney Doyle stated Special Board Planner Wisner outlined the number of meetings that were held, still on Page 5, stating seven (7) of those meetings were petitioners, correct. Special Board Planner Wisner stated ok. Attorney Doyle stated the other 19 or 20 was the Township putting on their case. Special Board Planner Wisner stated o.k. Attorney Doyle stated you mention in the meeting footnote 2 (Page 5) "meeting truncated due to last-minute cancellation of scheduled witness". He asked if this is the Mr. Danz meeting that did not happen. Special Board Planner Wisner stated yes, he advised the meeting happened, there was someone that testified, Mr. Danz was scheduled to testify and he did not.

Attorney Doyle again reading from Page 5, "finally, the board then heard from members of the general public who wished to testify on the deannexation petition". Attorney Doyle stated they did hear from some members of the general public who wished to testify but other would be witnesses because they had spoken some 14 months earlier were not allowed to speak, correct. Special Board Planner Wisner stated he did not view them as members of the general public per say, they were the petitioners. Attorney Doyle stated in some case they were non-petitioners who were residents weren't they. Special Board Planner Wisner stated yes, he suppose.

Attorney Doyle stated adding to this throughout Special Board Planner Wisner's report he makes this distinction. He provided for example he refers to Mr. DaBek as non-petitioner resident. He indicated he does not know if he calls petitioners who are residents, petitioner resident. He asked why this difference. He indicated they are part of Seaview Harbor. Special Board Planner Wisner stated they did not sign the petition. Attorney Doyle asked so what. He indicated there was enough voters to sign it why did he give them all the adjectives, non-signatory. Special Board Planner Wisner stated they did not sign the petition.

Attorney Doyle asked why is it relevant to what you are doing. He indicated language matters why was it relevant. Why did he put it in. He stated we know who John DaBek is. Special Board Planner Wisner stated there was no conscious decision one way or the other to ascribe anything other than he did not sign the petition. Attorney Doyle stated it does not have any planning significance does it. Board Member Aponte stated to Attorney Doyle he has answered him three (3) times. He does not believe a fourth or a fifth is going to make a difference. Attorney Doyle stated o.k.

Attorney Doyle again referring to Page 5, read the following “the various exhibits submitted and marketed into evidence”. Attorney Doyle stated we did not sell them, we marked them into evidence right. He advised this is three (3) lines from the bottom of page. Special Board Planner Wisner stated he sees. Attorney Doyle continued to read from Page 5 “data collected from various Township offices and other sources as indicated herein”. Attorney Doyle stated Special Board Planner Wisner spent hours and hours of meetings outside this public venue discussing this case with people who subsequently testified and obviously he can only cross examine them on what was in the public domain. Not what was said private to Special Board Planner Wisner.

Attorney Doyle asked Special Board Planner Wisner when he says data collected from various Township offices and other sources as indicated herein, if there is material in this report that was not put into evidence or was not the actual testimony. Special Board Planner Wisner stated the intent of that was to say there were items that were marked as evidence, as exhibits, and data that was collected beyond that is indicated in this report as to what that data is. Attorney Doyle asked if Special Board Planner Wisner footnotes what came from outside of the record. He asked if he placed “non-testimonial information” anywhere. Special Board Planner Wisner stated he does not believe he did.

Special Board Planner Wisner asked if there is anything specific that Attorney Doyle is referring to. Attorney Doyle stated no, but it makes it more difficult to read particularly given in his statement at the beginning when you put things in quotes in is not necessarily word for word. Special Board Planner Wisner stated he did not have the benefit of the transcripts to make it in quotes. He stated his intent was that quote/statement indicated the jest of what was being said.

Special Board Solicitor Marcolongo stated he just saw Attorney Doyle turn a page. Board Member Aponte stated since we are at the end of Page 5 and it is 10:05 p.m., so rather than going to the Legal Standards topic (Page 6) unless Attorney Doyle only has one or two questions on it, please feel free. Attorney Doyle stated he is fine.

**Motion Eykyn/Pfrommer to carry public hearing to March 21, 2016, 5:00 p.m., prevailing time. VOTE:** Aponte, Carman, Eykyn, Kearns, Pfrommer,

**SUMMARY MATTER(S):**

**SECTION I: Discussions of matters pertaining to the Board:**

**A: General public discussion: Motion Kearns/Eykyn to open public portion**

**May the record reflect no one came forward**

**Motion Pfrommer/Carman to close public portion**

**Motion Eykyn/Pfrommer to adjourn at 10:05 P.M. VOTE 5 Yes:** Aponte, Carman, Eykyn, Kearns, Pfrommer.

Respectfully submitted by,

Theresa Wilbert, Secretary