

**TOWNSHIP OF EGG HARBOR
PLANNING BOARD**

March 10, 2014

Solicitor: Christopher Brown, Esq., (Theodore Strickland, Esq., in attendance)
Engineer: James A. Mott, P.E., of Mott Associates (Robert Watkins, P.E. (not in attendance))
Planner: Vincent Polistina, P.P., of Polistina and Associates (not in attendance)

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

Roll Call Taken as Follow(s):

Manuel E. Aponte, V-Chairperson, present	Robert Levy, present
Committeeman John Carman, present	Mayor James J. McCullough, Jr., * See Below
Milas Cook, Alt. #I, present	Peter Miller, Township Administrator, present
Charles Eykyn, present	Paul Rosenberg, 2 nd V-Chairperson, present
James Garth, Sr., Chairperson, present	MD Shamsuddin, Alt. #II, present arr. @ 5:10 p.m
Frank Kearns, present	

***May the record reflect:** Mayor James J. McCullough, had another engagement, therefore, he has sent Township Committeewoman, Laura Pfrommer, in his place.

MEMORIALIZATION OF RESOLUTION(S):

- 1. SD 05-13
Lennard Hammerschlag**

**Minor Subdivision
2501/23
4060 Tremont Avenue**

Motion Carman/Eykyn to memorialize resolution granting requested checklist waiver(s) 1-2 & 4-5 and conditional minor subdivision approval. Vote 7 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Garth
- 2. SP 19-13
Deeper Life Deliverance Ministry**

**Minor Site Plan
1501/11
6024 Black Horse Pike**

Discussion: concerning off-set of improvements to date specific.

Jennifer Carlson, Esq., introduced herself as attorney for the applicant Deeper Life Deliverance Ministry. She advised the applicant is seeking a temporary certificate of occupancy for use of the building until a date certain for the conditions to be met.

Pastor Robert Parker, Deeper Life Deliverance Ministry, 6024 Black Horse Pike, Egg Harbor Township duly sworn: Pastor Parker advised the church would like to utilize the existing building, on a weekly basis, in order to raise the capital to make the changes necessary to complete the drainage and parking.

Pastor Parker advised he would like to use a time frame from today's date (March 10, 2014) to August 10, 2014 to have all the items finalized. He advised that by using the building on a weekly basis to conduct services it will help raise the capital in order to do so. Township Committeeman Carman asked

Pastor Parker if he felt the five (5) month delay would help in getting this done. Pastor Parker stated yes.

Pastor Parker advised currently the church has no place of worship. Chairman Garth asked if the church is going to change anything to the structure or the property. Pastor Parker stated no. He indicated the only thing the church will be doing is abide by the Township standards and what was approved.

Township Committeeman Carman asked Pastor Parker if there is enough parking on site so cars would be kept off the Black Horse Pike, if the Board were to allow. Pastor Parker stated the church has been working on this project for five (5) years. He indicated yes they absolutely can.

Township Committeeman Carman stated as long as there is enough parking he has no problem. Chairman Garth stated he also does not have any problems. Township Administrator Miller advised the resolution memorialized for "Rental Country" gave them until July 1, 2014 to construct their proposed improvements. He advised the Board could amend this resolution to the August 10th, 2014 date requested by the Pastor.

Motion Carman/Rosenberg to amend resolution granting requested checklist waiver(s) #1, 5, & 7, variance relief, conditional minor site plan approval and completion of improvements by August 10, 2014. Vote 7 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Garth

Board Member Rosenberg apologized and withdrew his motion as second advising he was not present last month. Therefore, the motion was recalled and referenced into the record by Board Secretary Wilbert as follow(s):

Motion Carman/Aponte to amend resolution granting requested checklist waiver(s) #1, 5, & 7, variance relief, conditional minor site plan approval and completion of improvements by August 10, 2014. Vote 7 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Garth

Motion Carman/Eykyn to memorialize resolution as amended. Vote 7 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Garth

3. <u>SPPF 06-13</u> EPG-EGG, LLC – "Rental Country"	Preliminary/Final Major Site Plan 2001/9 6661 Black Horse Pike
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Motion Carman/Eykyn to memorialize resolution granting requested checklist waiver(s), design waiver(s) #1, & 3-4, variance relief, and conditional preliminary/final site plan approval. Vote 8 Yes: Aponte, Carman, Cook, Eykyn, Levy, Miller, Shamsuddin, Garth

SUMMARY MATTER(S):

SECTION I:

Discussions of matters pertaining to the Board:

- 1. Discussion: scheduling of special meeting dates for the Seaview Harbor secession petition.**
 - a. Appointment of Special Legal Counsel**
 - b. Appointment of Special Planner**

Chairman Garth advised the Board must discuss scheduling special meeting dates for the Seaview Harbor secession petition and the appointment of a special legal counsel and special planner.

Township Administrator Miller advised he had sent out recommended resolutions to assign the special legal counsel and special planner. He advised the legal counsel would be Dean Marcolongo, Esq., and the planner is Stuart Wiser, whom are present this evening.

Township Administrator Miller explained both these individuals have experience in representing a municipality in a deannexation action. He advised since the Planning Board Solicitor did not want to handle the matter the recommendation is that these two (2) individuals are probably the most experienced people that could to represent the Planning Board.

Chairman Garth asked if these individuals were just representing the Planning Board or the whole Township. Township Administrator Miller stated Mr. Wiser will serve as the planner in consultation with the Board and will be the person who authors the report. He advised Mr. Marcolongo will be the one giving legal counsel as the Board proceeds.

Board Member Aponte stated he has seen the hourly rates for these individuals and they seem to be very qualified. He asked if Township Administrator Miller could provide a guess as to what this will cost the Egg Harbor Township tax payers. Township Administrator Miller stated he has budgeted \$35,000.00 for the calendar year. He hopes this matter will only take six (6) to seven (7) meetings, thereafter, the cost of preparing the report which is sent to Governing Body has to be considered. He stated what the cost will be when it gets to the Governing Body he has no idea.

Township Administrator Miller stated he understands when Cape May County went through a similar situation both parties spent an access of \$300,000.00 on their unsuccessful application. He indicated he would not be surprised if the number does not approach a similar number in this matter.

Motion Aponte/Kearns to appoint special legal counsel Dean R. Marcolongo, Esq. to represent the Planning Board concerning the Seaview Harbor Secession Petition. Vote 9 Yes: Aponte, Carman, Eykyn, Kearns, Levy, Pfrommer, Miller, Rosenberg, Garth

Motion Eykyn/Rosenberg to appoint special planner Stuart B. Wiser, P.P., Remington, Vernick and Walberg to represent the Planning Board concerning the Seaview Harbor Secession Petition. Vote 9 Yes: Aponte, Carman, Eykyn, Kearns, Levy, Pfrommer, Miller, Rosenberg, Garth

Chairman Garth advised the Board must now schedule a special meeting date for the Seaview Harbor Secession Petition. Township Administrator Miller advised Mr. McGlinchey, who is the president of the Seaview Harbor Civic Association is in attendance. He indicated their attorney had spoken with Board Secretary Wilbert and explained he would be out of State tonight but would be available by telephone so he can speak to him concerning proposed dates. Township Administrator Miller advised the Board does not want to pick a date and find out they cannot make it.

Township Administrator Miller stated Board Secretary Wilbert has passed out a calendar package. He suggested the Board identify two (2) dates they can be available then Mr. McGlinchey can check with his Attorney to find out if these dates work with them.

Township Administrator Miller advised while looking over the calendars he indicated a member brought up whether or not a quorum will be present for the regular scheduled meeting of April 21st. He indicated it is Easter Monday. Chairman Garth advised he would not be available. Township

Administrator Miller stated if other members can make the 21st the Board will not have to move the meeting date.

Township Administrator Miller advised there is one (1) application pending for the April 21st meeting and that it should take maybe a half hour. He also suggested the Board have a special meeting on March 31st. Board Member Aponte stated he could not make the 31st of March. Chairman Garth asked if this could be scheduled for April 21st, would there be a need for a special meeting. Township Administrator Miller advised he is not sure the Board would want to wait until April 21st to address this for the first time.

Township Committeeman Carman asked what the time constraints are. Special Solicitor Marcolongo stated the Board is required to prepare a report, adopt the report by resolution and submit to the Governing Body within 45 days from the date the Board receives the petition. He indicated this time frame is already running. Special Solicitor Marcolongo advised he would anticipate, but is not absolute, that the petitioner's counsel will waive time frame because he will want to have time to make a presentation. He stated the time frame provided is impractical.

Board Member Aponte asked if April 14th is a problem. Township Administrator Miller indicated Special Solicitor Marcolongo has a conflict on April 14th. Special Planner Wiser advised he also has a conflict on April 14th.

Township Administrator Miller stated for a normal Planning Board hearing application if a member missed a meeting they are provided a transcript in order to participate. He asked since this is not a formal hearing would a member still have to review documents before they could vote on the resolution. Special Solicitor Marcolongo advised yes. He indicated he would have the member listen to the recording of the meeting and review all the exhibits of that particular meeting.

Board Member Aponte advised on the 31st he has another meeting from 5:00 p.m. – 7:00 p.m. Township Administrator Miller indicated the Board does not have to start the meeting at 5:00 p.m. He indicated the Board could start at 7:00 p.m.

May the record reflect: Special Solicitor Marcolongo and representatives of Seaview Harbor left the court room to discuss potential hearing scheduling with Attorney John Paul Doyle via cell phone.

Mr. McGlinchey asked if he may address the Board. He explained he is the Zoning Officer within Winslow Township where Remington and Vernick are contractual professionals. He advised he wants to make sure there is no conflict. Township Administrator Miller asked if they represent Mr. McGlinchey as an individual. Mr. McGlinchey stated no.

Board Solicitor Strickland stated he would like Special Solicitor Marcolongo to address this issue formally upon his return, however, he advise if Mr. McGlinchey were to have submitted a Planning Board application concerning his home he would not preclude Remington and Vernick from the process. Again, he advised he would prefer Special Solicitor Marcolongo to address this issue.

Motion Miller/Aponte to conduct a brief recess. Vote 9 yes

Motion Miller/Aponte to reconvene from recess. Vote 9 yes.

Special Solicitor Marcolongo advised he had an opportunity to discuss with Mr. Doyle the first two (2) dates and they are acceptable. He indicated they are March 31, 2014, 7:00 p.m. and April 21, 2014, 5:00 p.m. He further noted the petitioner's attorney is aware there is one (1) other application scheduled for April 21st, and this will be the second item scheduled.

Special Solicitor Marcolongo advised Mr. Doyle will be sending a letter waiving the 45-days to permit the Planning Board to prepare a report and submit to the Governing Body. He advised Mr. Doyle will not waive the time indefinitely, since he would like to see this matter proceed promptly. Special Solicitor Marcolongo stated he advised Attorney Doyle that the Board will try to have one (1) meeting a month to move this matter forward, which may mean the Board will not only have a regular meeting but also a special meeting each month.

Chairman Garth advised there was a question raised. Board Solicitor Strickland advised a member of the petition committee works for Winslow Township. Remington and Vernick has a contract with Winslow Township. He advised the question is could this be considered a conflict. Special Solicitor Marcolongo stated he does not believe there is a conflict.

Township Administrator Miller stated since the Board has never been through something like this. He asked both Special Solicitor Marcolongo and Special Planner Wiser if they could each provide an overview.

Board Member Aponte asked what are the statutory test and case law for 40A: 7-12. Special Solicitor Marcolongo advised within his resume he provided a copy of the statute itself. He indicated a deannexation petition is unlike an application coming before the Board. He stated the petitioners have a burden of proof.

Special Solicitor Marcolongo advised the Board must determine how the deannexation will affect the residents of Seaview Harbor and the Township. He indicated the Board must do a balancing. He indicated there will be positives and negatives for Seaview Harbor, as well as, the Township. He advised in the end the Board must balance this information and make a decision that can be given to Governing Body.

Special Solicitor Marcolongo stated it is not the Planning Board who decides deannexation. He indicated the Board is a fact gathering unit and the Board will hear from various witnesses presented by the petitioner and the general public. Special Solicitor Marcolongo advised the Board may instruct him to bring in certain witnesses from the Township or outside the Township.

Special Solicitor Marcolongo explained that after the Board has received all the information the Board will have a final hearing where it will put forth findings of facts and conclusions of law, before that last meeting, however, Special Planner Wiser will make a presentation as to what he has heard and as a professional planner to what he believes are the positives and negatives of this type of application. He indicated when done the Board will adopt the report prepared by Special Planner Wiser, which will encompass the opinion of this Board and then a resolution is prepared and sent to Governing Body.

Special Solicitor Marcolongo advised the Governing Body than has 30 days from receipt of the Planning Board's report to make the determination concerning deannexation.

Special Planner Wisner stated from his experience with Upper Township the best advice he can give the Board is to listen and weigh and not feel the need to engage. The burden of proof is on the petitioner. He stated let the applicant do their job and the Board can collectively weigh what they have heard.

Special Solicitor Marcolongo stated if the Board should hear something that is untrue it would not be inappropriate for the Board to discuss the issue, however, this should not be an adversarial exchange. He indicated this is a fact gathering mission the Board is on.

Board Member Aponte stated the Board is accustomed to public coming out, however, he stated in most respectful way, he would like to make sure the testimony does not get repetitive. He indicated if it should get to that point he would like Special Solicitor Marcolongo to assist.

Special Attorney Marcolongo stated after a meeting if there is information you want and you feel is necessary he stated he needs to know this so the Board can make the most educated decision possible.

SECTION II:

a. General public discussion:

Motion Kearns/Aponte to open public portion. Vote 9 Yes

May the record reflect: no one came forward

Motion Carman/Aponte to close public portion. Vote 9 Yes

b. Motion Carman/Eykyn to approve February 10, 2014 planning board meeting minutes. Vote 8
Yes: Aponte, Carman, Cook, Eykyn, Kearns, Levy, Miller, Garth

Motion Carman/Aponte to adjourn at 5:50 p.m.. Vote 9 Yes: Aponte, Carman, Eykyn, Kearns, Levy, Pfrommer, Miller, Rosenberg, Garth

Respectfully submitted by,

Theresa Wilbert, Secretary