

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

May 24, 2016

Planning Board Professional(s):

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

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

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

Planning Board Deannexation Professional(s):

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

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

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

Roll Call Taken as follow(s):

Manuel E. Aponte, V-Chair., present

Charles Eykyn, present

James Garth, Sr., Chairperson, present

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, 2nd V-Chairperson, present

***May the record reflect:** Mayor James J. McCullough has recused himself from these hearings. He has sent Atlantic County Freeholder, John Carman, whom arrived at 5:43 P.M.

CONTINUATION OF PUBLIC HEARING(S):

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

Special Board Solicitor Marcolongo advised Special Board Planner Wiser he is still under oath.

Attorney Doyle referred to a transcript from the last meeting (April 26, 2016). He advised on Page 56 Special Board Planner Wiser was asked if census tract 135 was solely in Egg Harbor Township and he responded yes. Attorney Doyle then referred to Page 81 advising it was asked if Longport was part of census tract 135 it would make a difference then noting Special Board Planner Wiser answer was yes, but it is not. Attorney Doyle then referred to Page 82 advising Special Board Planner Wiser stated census tract 135 is not a part of Longport and on Page 83 of the transcript he stated Special Board Planner Wiser advised the map showing Longport being part of census tract 135 was wrong.

Attorney Doyle stated on Page 72 of the transcript Board Member Eykyn referring to the map, as well as, Dr. Perniciaro's testimony said the mapping included part of Longport referring to 135. Then noting Special Board Planner Wiser advised he did not think it does. Attorney Doyle noted subsequently Board Member Eykyn said he believes maps S155 and S156 show parts of Linwood and Longport in census tract 135, block group 1 and Board Member Rosenberg said he does too on Page 121.

Attorney Doyle asked if Board Member Eykyn and Board Member Rosenberg and the conclusion they made on the transcript from the last meeting correct. Special Board Planner Wiser stated he believes we went over this at length at the last meeting and they are correct. Attorney Doyle stated that would mean all the answers Special Board Planner Wiser gave, as quoted, were inaccurate. Special Board Planner Wiser stated he was mistaken.

Attorney Doyle stated at the last meeting and after that issue arose Special Board Solicitor Marcolongo stated at the next meeting we will receive a clarification. He asked if this is the clarification that census tract 135, block group 1 is not solely in Egg Harbor Township and covers more than Anchorage Poynte, Seaview Harbor as Dr. Perniciaro and Special Board Planner Wiser testified to but does include parts of Linwood and Longport, as have been shown on S155 and S156. Special Board Planner Wiser stated we just answered that. He indicated yes. Attorney Doyle asked what Special Board Planner Wiser has done since the last meeting, if anything, to come to that conclusion. Special Board Planner Wiser stated in addition to the coloring exercise Attorney Doyle had him do on the map from the last meeting. He went to the internet and went to numerous web sites that are hosted by the U.S. Census Bureau and use Census Bureau information. He indicated he also had his staff independently of him do the same. He indicated that was one of things they were able to discern.

Attorney Doyle asked if Special Board Planner Wiser if he reexamined S71, introduced into evidence on September 22, 2014. Special Board Planner Wiser stated no. Attorney Doyle stated when Special Board Planner Wiser mentioned the color exercise he is not sure the record will be clear on that. Special Board Planner Wiser meant when he drew the green crayon where he understood census tract 135 to be and with the red crayon where it is. Special Board Planner Wiser stated yes.

Attorney Doyle stated S71 does show and is consistent with the red line and what we now understand to be census track 135. Does it not. Special Board Planner Wiser indicated it appears to and he assumes it does. It is close enough. Attorney Doyle stated but although it was introduced, albeit by Mrs. CuvIELLO, Special Board Planner Wiser did not efficiently reflect upon it or examine it because he came to a different conclusion 19 months later when he testified at the last meeting. Special Board Planner Wiser stated he is not even sure he remembered that; that was part of her testimony. Attorney Doyle stated if it were examined it would have given Special Board Planner Wiser pause as to the information contained in your report. Would it not. Special Board Planner Wiser stated yes.

Attorney Doyle stated at that meeting Mrs. CuvIELLO also testified the median household income based upon the American Communities Census Survey from 2010 – 2012 for zip code 08403, which is Longport is \$73,214.00. Attorney Doyle asked Special Board Planner Wiser if that did not give pause or something was amiss with him showing an \$86,000.00 number for census track 135, block group 1. Special Board Planner Wiser stated if it had given pause he would have addressed it but it is something he did not catch. Attorney Doyle advised Special Board Planner Wiser indicate there are six (6) census tracts in the mainland Egg Harbor Township, reading from the minutes, Special Board Planner Wiser provided a description of where census tract 17.02 was located and what it encompassed, which Attorney Doyle read onto the record. Attorney Doyle then asked Special Board Planner Wiser that he was familiar with the Egg Harbor Township census tract map and the various block groups in it was he not. Special Board Planner Wiser advised apparently not familiar enough.

Attorney Doyle then referred to the last page of the September 22, 2014 and read into record comments concerning exhibit S71 onto the record with respect to it not showing Longport. Attorney Doyle then asked Special Board Planner Wiser it did show Longport did it no. Special Board Planner

Wiser stated apparently it did. He stated once again he was mistaken. He advised we can beat him up all we want. He was mistaken. Attorney Doyle stated he has no intention to beat him up and he appreciates Special Board Planner Wiser acknowledgement of a mistake. He stated the issue for the board is that there is a report that was done based upon wrong information. He indicated information that would have seemed the alarm bells should have been going off 20 months ago and he thinks it is fair to determine the conclusions that were made along the way from Dr. Perniciaro and Special Board Planner Wiser so we can reflect upon the motion that he asked, Dr. Perniciaro's testimony, be expunged or taken from the record. As well if any what weight his report should be given and potentially subsequent questions with Special Board Planner Wiser's report.

Attorney Doyle asked Special Board Planner Wiser if as a part of his exercise including reviewing numerous documents and his staff working independently of him. Did Special Board Planner Wiser go back and look at Dr. Perniciaro's report or the minutes where he testified. Special Board Planner Wiser stated he did not specifically do that. He then advised he would like to take a step back. He advised he looked at the census map Dr. Perniciaro used and the same error he found/encountered so he did not go back and specifically look at his data afresh.

Attorney Doyle stated Dr. Perniciaro did testify as he questioned Special Board Planner Wiser that if census tract 135, block group 1 were not exclusively in Egg Harbor Township it would skew the numbers and by the numbers Dr. Perniciaro talked of income, number of houses worth over \$500,000.00, education, mortgages. He asked Special Board Planner Wiser if he would agree with that conclusion would he not. Special Board Planner Wiser indicated to the extent he relied on data that included Longport but reported it to be Seaview Harbor, yes there would be modifications. He then stated he used the wrong word and advised the data would not be totally reflective of what he was attempting to portray.

Attorney Doyle stated put different the conclusions wouldn't be drawn from factual information to the degree it relied on the census data. Special Board Planner Wiser stated he does not think right now there is any way to tell how far off those conclusions were because we do not have the data, the data is not available at the level necessary for us to determine it. Attorney Doyle asked Special Board Planner Wiser when he says the data is not available. Is the data he looked out to come to the conclusion that the board members were right and that census tract 135, block group 1, does include Linwood and Longport. Attorney Doyle asked if he looked at any data that was not available as of September 22, 2014.

Special Board Planner Wiser advised we tried and that becomes part of the problem. He stated we were all over the internet trying to find data at the block level. He advised the census data is grouped as a census tract which is the largest geographical boundary, then it goes down to something the census calls a block group, which is a number of blocks and then it goes down to the block level. He stated when you get down to the block level you are speaking of a city block. He stated the map shows block groups extend over municipal boundaries and that is what he based his data on not realizing it extended over municipal boundaries and that is what he believes Dr. Perniciaro based his data on. He indicated he has tried and his staff has tried to find data at the block level that would give a sense of exactly where the boundaries are laid out. He indicated we were able to find that there are 1,258 census blocks and 11 census tracts in Egg Harbor Township but where not able to find the data at the block level.

Special Board Planner Wiser stated frankly he questions how Mrs. Cuvillo found the data at the block level. He indicated they looked at, as he said, all manner of web sites, we looked at blogs and he has a

copy of one blog where a question is posted. He then read the question into the record and various threads from the blog. Again, he stated he questions how Mrs. CuvIELLO got the data she got when it simply does not seem to be available. He indicated maybe she has a source different than the internet. He does not know. He advised her report is footnoted only as 2010 census data and it does not tell us where it came from.

Attorney Doyle stated if he understands Special Board Planner Wiser that he worked under misapprehension, his word, not Special Board Planner Wiser, a census tract would not go beyond a municipal boundary line. Special Board Planner Wiser stated he was of the impression it carved up municipalities internally but did not expand municipal boundary lines. Attorney Doyle stated so when he looked at the transcript lines 24 to 25, Page 75/11, which may the record reflect Attorney Doyle read onto the record. He asked Special Board Planner Wiser that this is consistent with what he just said. Special Board Planner Wiser advised it was his understanding of how it works. Attorney Doyle then referred to the transcript again on Page 104 lines 15-24, which he again read onto the record. Special Board Planner Wiser stated he thought he brought up Egg Harbor Township exclusively but the way it was presented on the census web site showed the block groups for Egg Harbor Township but did not indicate in any way any of those block groups may expand a municipality into another municipality.

Attorney Doyle stated he appreciates the exercise Special Board Planner Wiser and his staff did since the last meeting, but in fact this is the second time you have done this same exercise, because Special Board Planner Wiser raised the question at the end of Dr. Perniciaro's testimony that we have procedural problem that has to be resolved, which was the conflicts in the maps. He asked if Special Board Planner Wiser tested out whether his conclusions were right did he not. Special Board Planner Wiser stated no. Attorney Doyle asked Special Board Planner Wiser if he just accepted. Special Board Planner Wiser advised they went through this. He indicated his recollection was he was going to check his data and get back to us. He stated as was discuss this never happened. He stated he did not independently go back and try to figure out what he was saying or trying to say.

Attorney Doyle went back to the transcript from last month specifically Page 105, 22/24, he then read into the record this section of the transcript. Attorney Doyle then asked, based upon, what he just read if Special Board Planner Wiser did he not do an additional search about the information he placed within his report, post Dr. Perniciaro's testimony. Special Board Planner Wiser stated he does not remember when he did the search. He stated his recollection is that his data conforms to Dr. Perniciaro's and they both made the same mistake and again, he is admitting he made a mistake.

Attorney Doyle stated he recalls from the transcript and he will leave it but Special Board Planner Wiser stated his sources are his sources. He did his own examination. He advised that is last month post Dr. Perniciaro. Special Board Solicitor Marcolongo stated Special Board Planner Wiser just testified that he did not know if he did that research prior to the Doctors testimony. Attorney Doyle stated Special Board Planner Wiser suggested Ms. CuvIELLO got information that he could not find and it was not footnoted so he did not know where she received from, which is the \$73,214.00 as the average household in zip code 08403. He indicated she gave that testimony 20 months ago. Attorney Doyle stated Special Board Planner Wiser did not question her on it than. Attorney Doyle asked if he has since questioned her on how she got it.

Special Board Planner Wiser stated we started to look at this, this past week, in preparation of this meeting so he did not. Attorney Doyle asked Special Board Planner Wiser if he is familiar with Social Explorer it is a data site. Special Board Planner Wiser stated he does not know if he is or not. Attorney

Doyle then advised he would like to show Special Board Planner Wiser, he then noted he is talking about the ACS or American Communities Survey, 2012. Special Board Planner Wiser stated he is familiar with the American Communities Survey. Attorney Doyle then handed Special Board Planner Wiser a document and asked him if he recognized what it is. Special Board Planner Wiser stated it appears to be a table from some internet site that speaks to the American Communities Survey, which again is one of the search tools from the Census Bureau. Attorney Doyle asked Special Board Planner Wiser if he or his staff since they took on this assignment use this tool. Special Board Planner Wiser stated he knows he tried to use the American Communities Survey but he frankly does not remember if social explorer was a part of it. He stated it actually looks like from reviewing the bottom that perhaps a third party application and it does not start with US Census.gov which is what he considers to be the source material. He advised this information as the census tract 135, he does not know if this gets down to the block level or not. He stated he cannot tell.

Attorney Doyle asked Special Board Planner Wiser that he knew income information was not available at the block level. Special Board Planner Wiser stated if he had known it he would have laid it out for the board. Attorney Doyle stated he is looking at Page 108 of Special Board Planner Wiser report and footnote 151 where it has the estimated median household income for Seaview Harbor, census tract 135 and the footnote says "census data for this analysis is not available at the block level". So Attorney Doyle stated he is frankly surprised that it comes to Special Board Planner Wiser as surprise since he had this information in his report several months ago. Special Board Planner Wiser stated it was a long time ago.

Special Board Solicitor Marcolongo asked where in the document is footnote 153. Special Board Planner Wiser stated if you go to the header of "Race" (Page 108). Special Board Solicitor Marcolongo stated this footnote is indicating race is not dealt with at the block level not income but race. Special Board Planner Wiser stated this is what that footnote is trying to convey. Attorney Doyle asked what about footnote 151 that has dollar income and this is why he went around and did a visual survey. Special Board Planner Wiser he stated it is not available at the block at level and that is the sum and substance.

Attorney Doyle stated he meant not only race but income. Special Board Planner Wiser advised census data is not available at the block level. Attorney Doyle stated race was mentioned. He advised he was going to ask about it later, however, he will now. He indicated if Special Board Planner Wiser looks at what he put into his report on Page 108. He also noted as he understands it at the time Special Board Planner Wiser's understanding was census tract 135 included areas only in Egg Harbor Township and only Seaview Harbor and Anchorage Poynte. Special Board Planner Wiser it would also include to the extent and he does not know how they are counted the units on Margate Bridge Road.

Attorney Doyle stated based upon being a resident of Egg Harbor Township and being to this area a number of times did not Special Board Planner Wiser look at the data information that said 170 people live there and 29.5% of them were black or African American alone. Attorney Doyle asked upon Special Board Planner Wiser own perception and knowledge that a ¼ of the population of Seaview Harbor, Anchorage Poynte and the Margate Bridge was black or African American.

Special Board Planner Wiser stated he does not make a judgement on how people answer the census data. He indicated some people identify with whatever they identify with. He advised he used this information long enough to know that while the government believes it sufficient to use for redistricting and all manner of other purposes. He indicated the data is not always accurate or reflects of what the

conditions are. Special Board Planner Wiser stated people reply to it as they reply to it. He asked did it raise an issue 19 months ago. He does not remember.

Attorney Doyle stated the report was submitted in February, 2016. Special Board Planner Wiser stated he did not write in one day. Board Member Aponte asked why would this raise an issue to Attorney Doyle. Attorney Doyle stated having driven through Seaview Harbor numerous times, having been to meetings where most of the people have attended, having driven through Anchorage Poynte a number of times and observing the citizens in both places it does not distress him if the population was that diverse. But as a person and a person purporting to tell the board accurate information it strains his credulity that anyone familiar with Seaview Harbor, who has seen who signed the petition, who has seen the people at this meeting, who has been through the community several times. To put out a report to suggest whether it was self-declared or not that a quarter of the population is black means their eyes were not open to him. Attorney Doyle stated this is why he finds it strange.

Attorney Doyle noted he does not find the statistics knowing that people keep those statistics, but that statistic for that area knowing area, knowing that population. Board Member Aponte asked what does Attorney Doyle mean by that area. Attorney Doyle stated he means the geographic area of Seaview Harbor. Attorney Doyle stated Special Board Planner Wiser indicated he understood at the time census tract 135, he advised it is not a question if it is black or white, rich or poor, house size, mortgages, school, ages, anything if you saw ten (10) people, a hundred people, a 170 people and this is maybe about the right number that would have lived there. Board Member Aponte stated he asked the question is because he believes it is a little easier for Attorney Doyle to surmise that. But he does not believe it is a fair question to Special Board Planner Wiser only because he has not been to as many meetings as Attorney Doyle has, to know who all the signers are like he does. He advised he does not think it is a fair question.

Special Board Planner Wiser stated this data is for the entire census tract which includes other portions of the town. He indicated he did not go door to door to find out if the percentages were correct. Attorney Doyle stated Special Board Planner Wiser indicated, based on his earlier testimony tonight, when this report was filed, that census tract 135 including Seaview Harbor, had included parts of Longport or Linwood or did he. Special Board Planner Wiser advised no he did not but it did not matter it include other parts of Egg Harbor Township other than Seaview Harbor. Attorney Doyle asked what parts of Egg Harbor Township did it include other than Seaview Harbor, a few boat homes a bridge and Anchorage Poynte. Special Board Planner Wiser stated it includes Anchorage Poynte and there were people that live in the house boat community.

Attorney Doyle advised Special Board Planner Wiser just described what was included without having a map, language, or report in front of him. Attorney Doyle then again read from the September 22, 2014 minutes concerning the area census tract 135 encompassed. He stated though he does not have a transcript of that meeting it sounds as though Special Board Planner Wiser knew back 20 months ago that 135 included more than parts of Egg Harbor Township. Special Board Planner Wiser advised that is not his recollection.

Attorney Doyle then asked Special Board Planner Wiser to go back to the document he provided. He whatever the source this ACS 2012 five (5) year estimates. Board Member Aponte stated if we are talking about a document it should be place in as a number. Special Board Solicitor Macolongo stated they may mark for identification. Special Board Planner Wiser stated this is the layout for the ACS 2012 five (5) year estimate. Special Board Planner Wiser stated this is a matrix, a spread sheet.

Attorney Doyle referred to this document advising the median income shown in 2012 is \$73,214.00 in a column referenced 08403 ZCTA5. Special Board Solicitor Marcolongo advised Attorney Doyle that is coming close to supplementing the record going beyond what Special Board Planner Wiser has presented to the board as of date. Attorney Doyle stated no, not supplementing but clarifying the record. He advised the board should have a complete record and not what was received by Special Board Planner Wiser. Special Board Solicitor Marcolongo stated it is supplementing by providing new documentation with new data. It is supplementing the record.

Attorney Doyle stated that Mr. Miller did nothing but supplement the record than but questioning all the people who testified. He then went on to include that he questioned Chief Davis and Dr. Perniciaro and he placed information in the record and was not an issue. He indicated this is no different. Special Board Solicitor Marcolongo stated that was during the affirmative presentations of all the witnesses here. He indicated we are well beyond that. We are at the planning report and we stated very clearly we would not supplement after that. Attorney Doyle stated this is no different that S155 or S156 that proved the report was wrong. He indicated if Special Board Solicitor Marcolongo did not let that into evidence this board would have been acting on non-accurate information. He asked how can Special Board Solicitor Marcolongo keep out accurate information that is going to help this board better determine Special Board Planner Wiser conclusion that somehow Seaview Harbor is the wealthiest, stable, whatever else Dr. Perniciaro and Special Board Planner Wiser has said if we cannot put in numbers that suggest that is wrong.

Special Board Solicitor Marcolongo stated two (2) pieces of paper out of volumes of information that was presented to Special Board Planner Wiser with no opportunity to review and just pick one to two numbers off of it without the opportunity to determine if those numbers are accurate, which would than require him to go back again to try to confirm those numbers at a later date. He advised this is the problem we are trying to avoid. Attorney Doyle stated he could have confirmed it. He advised this information only says Mrs. CuvIELLO, whose testimony he questioned this evening, was accurate. He advised the document is here. The information comes out of the ACS that Special Board Planner Wiser quoted. He asked why he cannot place in public records. Special Board Solicitor Marcolongo stated it is an incomplete record and he does not have the opportunity to review it and determine if the numbers are accurate. He stated we are getting two (2) sheets of paper.

Attorney Doyle asked if there is anything Special Board Planner Wiser if there is anything he needs to question or sees with this paper that is inaccurate. Special Board Planner Wiser stated he could not say what is inaccurate, but he doesn't know what the heading 08403 ZCTA5 means. He stated 08403 is presumably the zip code for Longport but what ZCTA5 means he has no idea. Attorney Doyle asked if it is not more than the zip code for Longport. Special Board Planner Wiser stated to Attorney Doyle that we can be cute. This is the zip code for Seaview Harbor and whatever else. But the point is he has no idea what the ZCTA5 label is. He indicated frankly he does not know what this data is. Is it at the block level or the block group level. He has no idea.

Chairman Garth asked Freeholder Carman is now present at 5:43 p.m.

Attorney Doyle asked Special Board Planner Wiser that 08403 is in fact the zip code for just Seaview Harbor and Longport is it not as shown in S4 or in S5, as he believes or does he know that. Special Board Planner Wiser stated to Attorney Doyle he knows it is Seaview Harbor and Longport. He indicated if there are any other areas it falls under he is not going to be the one to say or no. He stated to have Attorney Doyle come back and tell him he is wrong. Attorney Doyle stated he would not be wrong if he

agreed with it. Special Board Planner Wiser stated to agree with Attorney Doyle. Attorney Doyle stated no. He advised \$73,214.00 shown is the same number Mrs. Cuvillo gave 20 months ago is it not. Special Board Planner Wiser stated he does not know he does not have in front of him. Attorney Doyle stated he would like to have it marked for identification. Special Board Solicitor Marcolongo asked if he is going to ask more questions from it. He noted it does not have to be marked for identification. Special Board Solicitor Marcolongo stated it is for identification and is reviewed by a court in the future it would not be part of the record anyway.

May the record reflect: after additional discussion Special Board Solicitor Marcolongo marked the information. Chairman Garth asked if they will receive a copy of this. Attorney Doyle stated no. They do not want you to see the record.

May the record reflect: there were numerous comments were coming from members, the professional's and the audience, at which point it was asked that everyone take a five (5) minute recess. After returning Board Member Aponte stated it is important for all of us, we have had 35 meetings and maybe getting long for everybody. So if this in fact our last night we should all try to keep our level heads. Attorney Doyle thanked Board Member Aponte and advised Mr. DaBek also expressed this sentiment to his colleagues.

Special Board Solicitor Marcolongo stated he has marked S157 ACS 2012 Five (5) year estimates front and back page for identification purposes only. Attorney Doyle stated Dr. Perniciaro testified on September 30, 2015 and at the end of the meeting Special Board Planner Wiser had some questions that needed to be resolved. He stated Special Board Planner Wiser was asked what he had done between then and writing the report to confirm in his own mind. Attorney Doyle stated he recalls Special Board Planner Wiser answer was he cannot remember what he did and when he did it. He asked if Special Board Planner Wiser did anything to verify Dr. Perniciaro's report.

Special Board Planner Wiser stated he thinks he answered that question. He advised he tried to get ahold of Dr. Perniciaro to take a fresh look at his report to explain where the discrepancies between his numbers and where people thought other numbers were to come from and he never got back to him. Attorney Doyle stated it was not so much the numbers but the difference present in S138 which showed the southern half of Longport. Special Board Planner Wiser which leads to the numbers. Attorney Doyle but it was the map and the numbers. Special Board Planner Wiser stated sure. Attorney Doyle asked other than the calls that remained unanswered did Special Board Planner Wiser do anything else. Special Board Planner Wiser stated he did not attempt to do anything else until after the boards last meeting.

Attorney Doyle then read from the transcript of the board meeting from last month Pages 74 and 75 with respect to dialogue between himself and Special Board Planner Wiser. May the record reflect this dialogue consisted of Dr. Perniciaro report and back and for questions from Attorney Doyle and answers from Special Board Planner Wiser. May the record reflect that after reading from the transcript Attorney Doyle stated Special Board Planner Wiser's testimony is different tonight than it was last month concerning Dr. Perniciaro and confirmation of the data. Special Board Planner Wiser stated this information refreshes his recollection and is probably closer to what happened then the answer he provided this evening.

Attorney Doyle stated with Special Board Planner Wiser's recollection assisted what did he do to see whether Dr. Perniciaro was right or wrong and concluded based upon the testimony from last month

was that he was right. Special Board Planner Wisner stated rather than using County census map, which is what Attorney Doyle placed into evidence, he went on census web site and downloaded census maps in electronic format and overlaid them on the Township. He indicated still had problem with floating call outs. But did not appear from what he to discern, at that time, that the census tract overlapped municipal boundaries. He indicated maybe he did not look hard enough because he did not think they did when in fact they do. Special Board Planner Wisner stated he will say it again he made a mistake the horse is dead. Attorney Doyle stated he is trying to figure out what was unclear about S138. Special Board Planner Wisner stated if one starts with the premise that census tracts do not span municipal boundaries. The fact that the label is in the middle ocean that says census tract 135 in red and it's not on Longport or Egg Harbor Township lead him to believe there was some problem with it as it was transposed from whatever source to his piece of paper at this zooming level. Attorney Doyle asked even though the title says Longport. Special Board Planner Wisner again it gave him pause.

Board Member Aponte noted to Special Board Solicitor Marcolongo that he wants Attorney Doyle as open and full of a record that is possible. However, with the exception of a five (5) to ten (10) minute pause we have been going over the same thing that Special Board Planner Wisner has apologized for at least may ten (10) to twelve (12) times. Special Board Solicitor Marcolongo stated that acknowledgement was given within the first five (5) minutes of the meeting.

Board Member Aponte stated so unless Attorney Doyle has some earth shattering information that is going to change the fact that he apologized. He asked Attorney Doyle what else does he have. He advised it is being said over and over. He indicated this may lead to the frustration we have. Attorney Doyle stated he will continue to ask questions rather than respond. He stated he has a job to do. Special Board Solicitor Marcolongo stated the board has the ability, has the discretion to say we can move on to the next topic at any point. He advised Attorney Doyle can object to that and we can move forward. Special Board Solicitor Marcolongo stated he thinks that is what the board is saying and if we continue to beat the horse it's not worthwhile, but if there are additional points to be made relevant on other topics that involve the census he understands that. Board Member Aponte asked if anyone else feels the say way. May the record Township Committeewoman Pfrommer stated yes, Board Member Rosenberg stated yes, and Chairman Garth stated he believes we all do.

Attorney Doyle stated he appreciates this and as he said he will ask the questions he believes are appropriate. He indicated the census data has been before this board for the last 20 months. He then stated he will ask his question. Board Member Aponte stated if it is going to go back to the 135. Attorney Doyle stated let the Board judge it at the time. Attorney Doyle indicated on Page 206 -208 of Special Board Planner Wisner report he quotes Dr. Perniciaro at length and found everything he reported as his findings as Special Board Planner Wisner own. Is this not correct. Special Board Planner Wisner stated he objects to the characterization that he cited as his own. He indicated he does cite this is what Dr. Perniciaro said and I said I concurred with him. Attorney Doyle stated it comes under a heading of R.V.W. findings on Page 206, paragraph B. So these are Special Board Planner Wisner findings based on what Dr. Perniciaro testified to. Special Board Planner Wisner stated yes.

Attorney Doyle asked Special Board Planner Wisner now knowing what he knows. Does he not agree this should be removed from the report. Special Board Solicitor Marcolongo asked Special Board Planner Wisner to take the opportunity to read each of the paragraphs. Special Board Planner Wisner stated the first paragraph demographic profile of Seaview Harbor's residents is different than those of the balance of the Township. He stated he does not know how different that might be that the changes come from

refining the data would lead Seaview Harbor to be more in balance with the Township so he would not throw that out.

Special Board Planner Wiser then discussed the section concerning Seaview Harbor residents being older, however, we really do not know this although there has been testimony that they are an older community. Special Board Planner Wiser stated the next subject is concerns being less racially diverse and he believes Attorney Doyle's comment about the percentage of African Americans in Seaview Harbor being high probably means that is a correct statement and more affluent than their Township counterparts. Special Board Planner Wiser stated as he said before the census does not measure affluence it measures income. He advised even if we throw out the discrepancy on the income as we talked about last time just judging from the values of the properties in Seaview Harbor he would say the residents are more affluent than their Township counterparts.

Attorney Doyle asked Special Board Planner Wiser makes a definition of affluence based upon the house. He stated nothing to do with income or whether they are on retirement income or a pension. Special Board Planner Wiser stated the believes there are all kinds of things that go into affluence including investments, property that may be owned in Seaview Harbor or property owned in another State where residents have a primary residence or a secondary residence such as Florida or some other town in New Jersey or Pennsylvania. He indicated he believes there are many things that go into affluence and he would not limit to just income. Attorney Doyle asked Special Board Planner Wiser asked if he knows any of these factors about one single resident in Seaview Harbor to make the comment they are more affluent.

Special Board Planner Wiser stated he knows the average assessments and the value of the homes. He stated moving on Dr. Perniciaro testified households in Seaview Harbor different significant from income, which we really do not know, housing tenure, age, and educational Stuart: different in income, housing income, age, educational attainment we do not really know. Special Board Planner Wiser then read onto the record a portion of the 1st paragraph on Page 207. He then noted based upon what he referenced it is probably still the case judging antidotally but we cannot measure it. Special Board Planner Wiser continued reading the remaining portion of the 1st paragraph on Page 207 with respect to fiscal value of the community associated with the marina and advised this is true.

Special Board Planner Wiser read onto the record the 2nd paragraph on Page 207 in its entirety and stated this is still true. Special Board Planner Wiser then read the 1st bullet item on Page 207 stating. Again, if you are speaking of income we do not know, but if you are talking about affluence, he thinks just judging from the properties it gives the board at least an idea to go by. Special Board Planner Wiser read the 2nd bullet item on Page 207 onto the read. Thereafter, noting this has nothing to do with the census. He then read onto the record the 3rd bullet item. When completed Special Board Planner Wiser stated we know this to be true although perhaps not measured by the census. Special Board Planner Wiser read onto the record the 4th bullet point on Page 207 noting after he thinks this is also a valid statement.

Attorney Doyle asked Special Board Planner Wiser how did Dr. Perniciaro, adding he asked him this question but he could not give him an answer, so Attorney Doyle stated he does not know why Special Board Planner Wiser relies on Dr. Perniciaro's testimony if he cannot answer. Attorney Doyle asked Special Board Planner Wiser how Dr. Perniciaro would know most Seaview Harbor residents have saved wealth or second earner of near equal earning power. Special Board Planner Wiser stated he would not know. Attorney Doyle asked if Special Board Planner Wiser does not know how he would know

something that has no factual basis. Special Board Planner Wiser stated ok, throw it out and we will move on. Attorney Doyle stated when Special Board Planner Wiser says throw it out. He asked Special Board Planner Wiser at the very beginning of his testimony if there was new data given to him that called into question the findings that he made would he reconsider those findings.

Attorney Doyle asked Special Board Planner Wiser does he not consider what he now knows about census tract 135, block group 1, including parts of Longport and Linwood and not being exclusively in Seaview Harbor such new data that it calls for changes in your report. Special Board Planner Wiser stated he will say it once again. We cannot get to the level of data required for him to be fully comfortable with the data in his report. Special Board Planner Wiser stated he thinks we can look antidotally at most of these statements and know living around here, driving through we can know certain things to a reasonable certainty, but we do not know statistically what they are.

Special Board Planner Wiser stated Attorney Doyle is objecting to this 4th bullet item (Page 207) and he agrees with him. He stated while the community is represented by a number of people who have second homes elsewhere and have more wealth than people who are living in their primary residence and have no second home we cannot measure it. He stated he is not going to debate so throw it out. Attorney Doyle stated that was not his question. Attorney Doyle stated Special Board Planner Wiser said he would re-examine findings if new data was presented. He asked is not census tract 135, block group 1, not exclusively Egg Harbor Township new data. Special Board Planner Wiser stated this is not what was asked. He was asked to go through this and what he would throw out.

Attorney Doyle asked Special Board Planner Wiser if census tract 135, block group 1 not exclusively in Egg Harbor Township. Special Board Planner Wiser stated we learned this last time. Special Board Solicitor Marcolongo stated he would like to go back three (3) questions and have Special Board Planner Wiser answer. Special Board Planner Wiser stated Attorney Doyle asked him based on finding of error whether he would throw out this section. He indicated he believe there is more information in this section than simply relying on census data. So his answer would be no he would not throw out this whole section which is why he is reading through this and advising what he thinks is of value and what can be thrown out.

Attorney Doyle asked Special Board Planner Wiser if he is content to issue a report based upon a witness whose report starts "using available data" which as it turns out is wrong. He indicated the only data that he used in terms of much of the findings is a table on the top of Page 2 of Dr. Perniciaro's report. Special Board Planner Wiser noted to Attorney Doyle to the extent that Dr. Perniciaro census data is called into questions while his findings may still be relevant they may not be relevant because we do not know the accurate data, albeit, he does not know how you get to the accurate data may put a different conclusion.

Attorney Doyle presented Special Board Planner Wiser with Exhibit B144 Dr. Perniciaro's report. He then referred to the chart on Page 2. He asked had Dr. Perniciaro not positive the chart, minus Margate, the rest of Egg Harbor Township in the left hand column versus in the right hand column census tract 135, block group 1 with the basis of map that says the only thing in census tract 135, block group 1 is Anchorage Poynte and Seaview Harbor. Special Board Planner Wiser stated yes, this is what we have been talking. Attorney Doyle stated so when saying using available data and that is the only data he cites about Seaview Harbor versus Egg Harbor Township. Special Board Planner Wiser stated that is not true. He then referred to Dr. Perniciaro's headers which cite his sources which are the ACS (American Communities Survey – 2013 five (5) year) and whatever an FFICE is and he does not know what that is

and Freeholder district data for 2010. He stated to throw out the entirety of this because one (1) component maybe inaccurate is throwing out a baby with the bath water. Though he will recognize that we cannot know here what the right statistics are. Attorney Doyle stated the minutes indicated Dr. Perniciaro did not use the FFICE and he should have removed from the header and Attorney Doyle added he does not believe he used the Freeholder information either. He indicated the only data he cites is the chart. He continued by stating other than some employment statistics deal with Egg Harbor Township with other towns. He stated the only data he uses about Egg Harbor township is that chart.

Special Board Planner Wiser stated he does not know. He advised if the record evidences that he will accept Attorney Doyle's comments. Attorney Doyle asked Special Board Planner Wiser that if this is the only data he used and if it is wrong how can Special Board Planner Wiser still maintain his conclusions. Special Board Planner Wiser stated Dr. Perniciaro has comments within the report that has nothing to do with the census. He stated the 2nd bullet comment on Page 207 has nothing to do with the census. Attorney Doyle asked if he produced any other facts to come to that conclusion. Special Board Planner Wiser stated Dr. Perniciaro is a Phd. Economist. Attorney Doyle stated no, facts in the record concerning this case that you heard him say. Special Board Planner Wiser stated that brings to bear. Board Member Aponte asked if may stop for one moment. He asked if the FFICE were in the minutes of the meeting or the transcript. Attorney Doyle stated he did not get a transcript of that meeting it is in the minutes.

Special Board Solicitor Marcolongo stated this is heading to the motion from Attorney Doyle that Dr. Perniciaro's entire report should be stricken from the record. He asked if he is correct. Attorney Doyle stated all three (3) pages of it and the erroneous map should be stricken. Special Board Solicitor Marcolongo stated that is the motion and to stricken Pages 206 – 208 (Special Board Planner Wiser report) from the record. Attorney Doyle stated we have not gotten to other pages Special Board Planner Wiser report that refer to Dr. Perniciaro's testimony. Special Board Solicitor Marcolongo stated it is his opinion and he will recommend to the Board that these documents be included in the record in their entirety, warts and all. He indicated Attorney Doyle has done a nice job in pointing out the difficulties with the data that is in it. He advised it is the boards job weigh the evidence. But that is the Boards job when we get to the end. He stated at this point those documents have been admitted, impeached at a certain level and the board will give that weight but it should be in the record particularly if a court is eventually going to review this they are going to want to see every document discussed during the hearings.

Attorney Doyle stated none of us are perfect and no document is perfect. We have all had to admit mistakes and Special Board Planner Wiser was big enough to do this evening but you would want to produce a fact base report as possible. He indicated to the degree it has expert opinions that is not facts. He indicated the conclusions have to be based upon facts and evidence. So when the report is whole beginning and how can you have opinions not based upon facts. He added Board Member Eykyn and Board Member Kearns questioned Dr. Perniciaro's report back when he testified and they were right. He indicated Special Board Planner Wiser when reaffirming Dr. Perniciaro's report in his own report was wrong and a wrong which he has admitted to. He asked why do we perpetuate that wrongness with keeping Dr. Perniciaro's report.

Attorney Doyle stated he was not able to cross examine fully because the bell rung 9:00 p.m. He stated you could not find out how he would have corrected the record because he would not answer your own expert Planners phone calls. Special Board Solicitor Marcolongo stated the report the board wants to get right is their own report that will be based upon your review of all of the evidence presented and

their report may very well point to the errors in the data raised by Attorney Doyle during this discussion about the census. He indicated Attorney Doyle's job is, and he has done it very well, is to point out certain inconsistency but his recommendation is that both reports in their entirety be admitted into evidence. Chairman Garth stated he can understand that because as Special Board Solicitor Marcolongo said if this goes to court than you will have to have all the papers and testimony so it can be looked at.

Attorney Doyle stated if that is the case he would like to think that the information he wants to put before the Board. He should not go through the charade and the dance that he is supplementing the record that is only going in for information. He stated if you are going to place some non-responsive, non-facted so called experts report into evidence why can he not place public documents into evidence. Board Member Aponte asked what is he talking about public documents. Attorney Doyle stated the information concerning public statistics, income and some that he will be placing in this evening. He stated the last ACS matrix went in as identification and the Board could not see it.

Special Board Planner Wiser stated he would like to discuss the matrix. Attorney Doyle stated no. Special Board Solicitor Marcolongo stated the Board wants to hear all relevant information. Special Board Planner Wiser stated when Attorney Doyle referenced the \$73,214.00 as being the median household income for Seaview Harbor. Attorney Doyle advised he did not say Seaview Harbor but for the Zip Code 08403 which is all of Longport and Seaview Harbor. Special Board Planner Wiser stated when this was discussed he received the impression and maybe the board did too that this was the true median income for Seaview Harbor. Board Member Aponte stated he did get that impression when Attorney Doyle discussed Ms. CuvIELLO's report. Attorney Doyle stated he read exactly what was noted. He then read onto the record the section of the September 22, 22014 minutes where Ms. CuvIELLO discussed the American Communities Survey. Special Board Planner Wiser stated he is in error and the board does benefit from this clarification.

Attorney Doyle asked Special Board Planner Wiser if he has any evidence to refute Ms. CuvIELLO's testimony that the American Communities Survey shows that the median household income for zip code 08403 is \$73,214.00. Special Board Planner Wiser stated he didn't look at. He added if that is going to include Longport he does not know how it is going to be relevant. He stated if an income figure that Attorney Doyle is quoting includes income from Longport than how is it relevant to this deannexation. Attorney Doyle stated Dr. Perniciaro who Special Board Planner Wiser wants to use portions of his report and find its conclusion compelling, using Special Board Planner Wiser words, said the two (2) wealthiest block groups were Longport and Seaview Harbor. So it Longport is wealthier than Seaview Harbor and the combination of them has a median income of \$73,214.00 then Seaview Harbor's income must be less than Longport.

Special Board Planner Wiser asked how do we know Longport's income is greater, less then or the same as Seaview Harbor. Attorney Doyle stated because Dr. Perniciaro said it was. Special Board Planner Wiser indicated Attorney Doyle has already attempted to debunk what he said. Board Member Aponte asked if there is a way to drill down what the number is. Attorney Doyle stated no. Special Board Planner Wiser stated he tried. Attorney Doyle stated Special Board Planner Wiser indicated this correctly on Page 108 of his report that certain information is not available at the block level. Board Member Aponte asked when they look at both reports whether it be Ms. CuvIELLO's report or Special Board Planner Wiser report this is something they should strike out.

Attorney Doyle stated no. He indicated Special Board Planner Wiser report has been refuted by facts he had to admit were right. He indicated Dr. Perniciaro's report refuted by facts that he has not even

bothered to answer Special Board Planner Wiser. He advised Ms. CuvIELLO's report and evidence stands unchallenged 20 months later. Board Member Aponte stated it is the same number and he calls it into question. Attorney Doyle stated based upon what evidence. Board Member Aponte stated correct there is no evidence. Attorney Doyle stated that is right. He stated there is her evidence and no one questioned her. Special Board Solicitor Marcolongo stated Ms. CuvIELLO used the same building blocks as Dr. Perniciaro and Special Board Planner Wiser and we have now evidence the fact or at least for the Board to make a decision that those building blocks were faulty. Does it not cause her report to have the same problem.

Attorney Doyle stated no. He indicated if that is what the board is thinking you are all missing the point. As Special Board Planner Wiser said before the numbers come from the map what Dr. Perniciaro and Special Board Planner Wiser did wrong was they misinterpreted the map. They said census tract 135, block group 1 is solely in Egg Harbor Township. He indicated the map says that is wrong so the data cannot be ascribed to Seaview Harbor alone. He stated what Ms. CuvIELLO said they do put out income based on zip code and the only people who have the 08403 live in either Longport or Seaview Harbor. He indicated that is clear in the testimony. Board Member Aponte stated that is the same distinction. Special Board Planner Wiser stated if that is the case and we cannot find a way to separate Seaview Harbor from Longport with respect to census block group data so the same flaws exist in the data. Attorney Doyle stated that is factual wrong. He indicated already in evidence from Mr. Ryan and Mr. Costello is the average assessed value of a residential unit in Longport is roughly 25% to 30% more than the average assessed value in Seaview Harbor so if that is sign of affluence and they have an equal proportion of, if not greater, seasonal than they are more affluent. He indicated the income gets more weighted toward them in that zip code.

Attorney Doyle asked Special Board Planner Wiser when he stipulate data is not accurate in here what did he mean by here. Special Board Planner Wiser stated he does not remember what the context was stating but he is guessing if he was stipulating than it would be his report. Attorney Doyle stated ok, but could Special Board Planner Wiser for the Board stipulate in writing before they start thinking about it what is the data, in his report, that is not accurate. Special Board Planner Wiser stated he is going to testify this evening, under oath, that the census data that is in his report presupposed that census tract 135 was limited to Egg Harbor Township and it did not include Longport. He stated apparently he was wrong. It did include Longport so that data cannot be relied on.

Attorney Doyle stated Special Board Planner Wiser indicated he has no faith on the data as developed. He asked what he not the person who developed it. Special Board Planner Wiser stated yes, he was the person who developed it. Attorney Doyle asked Special Board Planner Wiser to his knowledge can he determine income statistics for not block(s). Special Board Planner Wiser stated the census data is not available on internet at block level. Attorney Doyle stated it is available at the census tract level. Special Board Planner Wiser stated yes. Attorney Doyle asked if it is available at the block group level. Special Board Planner Wiser stated yes. Attorney Doyle asked in Special Board Planner Wiser report, on Page 278 he has for each of the census tracts in Egg Harbor Township what the income is. Special Board Planner Wiser stated he has it for what, when he wrote it, was for the census tracts in Egg Harbor Township and he does not know if these now include any other lands outside of Egg harbor Township. Attorney Doyle asked Special Board Planner Wiser that he does not know if the others such as 117.01 up to 120 are totally within Egg Harbor Township. Special Board Planner Wiser stated not at this point can he be confident.

Attorney Doyle asked in re-checking did Special Board Planner Wiser determine, having census tract 135, going beyond Egg Harbor Township boundaries, check to see if the other seven (7) were outside of Egg Harbor Township. Special Board Planner Wiser stated no because the whole purpose of the chart was to make a comparison between Seaview Harbor and the rest of the Township and if he could not find Seaview Harbor's number it did not make any sense to try to find the other numbers. Attorney Doyle asked Special Board Planner Wiser he cannot conclude based upon the data that he has confidence in that by any provable statistic that the average household income in Seaview Harbor is any different than the median income in Egg Harbor Township can he. He asked should we not excise Page 268 from the report.

Board Member Aponte asked did we not discuss the median of the median last month. Special Board Planner Wiser stated yes. He will stated once again. He does not have the full faith of the census data in his report to rely on. He stated based on what he was able to download at the time or what he thought he was downloading. Attorney Doyle asked Special Board Planner Wiser that he has not with any statistical that he has faith and confidence in that the median household income in Seaview Harbor is any different more or less than the median household income in the balance of Egg Harbor Township. Special Board Planner Wiser stated this is correct.

Chairman Garth asked is Attorney Doyle indicating the average income for the residents of Seaview Harbor is less or more than what is stated in the book. Attorney Doyle stated no. He advised based on Special Board Planner Wiser lack of confidence in the census data he has used, including the information on Page 278, he has no ability to say with fact that the average income of Seaview Harbor residents is less than or more than. He cannot make a judgement of which is less or more. Chairman Garth asked Attorney Doyle that he does not care how much these people are making. Attorney Doyle stated no, what he is saying Special Board Planner Wiser, as well as, Dr. Perniciaro that because of their wealth, their affluence and including their income that this is a more stable community because they have higher income and if you cannot Garth; more or less than what is stated in the book. Doyle: census data he has not ability and faith and confidence is less than or more than. Garth: do not care how much they are making. Doyle: because of their income and wealth this is a more stable community. If you cannot prove they have a higher income then you cannot conclude the conclusions of Dr. Perniciaro and Special Board Planner Wiser have made which are central to his report.

Chairman Garth stated Ms. Cuvillo came up with an average income. Special Board Planner Wiser stated no one has come up with. He stated people have come up with data that they have found. He indicated in some cases misused and in others used. He stated the zip code data, which has not been questioned, other than from the board some 20 months later, for that zip code the average income is \$73,214.00. He indicated that is the only figure because Special Board Planner Wiser has no confidence in any of the numbers. He then added, he would be pleased to show Special Board Planner Wiser if would want to see it, various block groups within Egg Harbor Township where the income on average is \$90,000.00, \$88,000.00, \$86,000.00, \$77,000.00 and the board can make its own conclusions and look at the Egg Harbor Township map, which is in evidence. He stated when Special Board Planner Wiser states he has no confidence.

Attorney Doyle stated they placed in an Egg Harbor Township census map, marked S137, showing the groups. Board Member Aponte asked Special Board Planner Wiser that he has no confidence in the census tract. Special Board Planner Wiser stated what he meant to say is that census tract 135 spans two (2) municipalities and there may be other census tracts that show up when you do the search as being in Egg Harbor Township but will span another municipality. Board Member Aponte stated so

Mays Landing could be grouped just like the situation here. Special Board Planner Wisner stated it is possible. Board Member Aponte asked if everyone is using that same data. Special Board Planner Wisner asked what does he mean. Board Member Aponte asked if everyone is relying on the census tract. Special Board Planner Wisner stated he knows what he relied on. He is pretty sure Dr. Perniciaro relied on the same as what he relied on but he does not know Ms. Cuvillo relied on. He stated he cannot see how she excised out Seaview Harbor from the Longport data. Attorney Doyle stated she did not. Special Board Planner Wisner stated and if she did not then the errors in his census data because it includes Longport and Seaview Harbor. There would be similar errors in her data because she used the zip code to include Longport and Seaview Harbor. Special Board Solicitor Marcolongo stated what he believes Attorney Doyle is trying to say is Ms. Cuvillo's data is correct because when she presented it to the board as Longport and Seaview Harbor. So her data is not wrong. Attorney Doyle stated Special Board Solicitor Marcolongo is right and for the third time Special Board Planner Wisner tried to say Mrs. Cuvillo stated it was for Seaview Harbor and he tried to infer that.

Special Board Planner Wisner advised he is reviewing Page 18 of Ms. Cuvillo's report and she has a column that says Egg Harbor Township, one that says Seaview Harbor and a column that says Longport Borough. He stated clearly she did a calculation that broke out Seaview Harbor from Longport. Attorney Doyle asked does that data show median household income. Special Board Planner Wisner stated no. Attorney Doyle stated so it is not relevant to this discussion. Special Board Planner Wisner stated it is relevant to her methodology. Attorney Doyle stated we just discussed her breaking it out and she did not. She presented it for what it was, the zip code, and now Special Board Planner Wisner is mixing apples and oranges that does not show median income.

Attorney Doyle presented Special Board Planner Wisner Exhibit S137. Asked if there is any question that census tract 118.02 is wholly within Egg Harbor Township. Special Board Planner Wisner stated no because it is not on the border of the Township. He indicated if you look at census tract 135 the way it is drawn there be no question in his mind that it wholly in Egg Harbor Township but we know it is not. Attorney Doyle stated census tract 18.02 according to Page 278 of Special Board Planner Wisner report has the highest estimated income does it not. Special Board Planner Wisner it has the highest median income on this chart with the caveat that he is not sure some of the other census tracts don't overlap into other areas that may increase those numbers.

Attorney Doyle stated so he will accept what Special Board Planner Wisner placed on the record before. He has no factual information to give the board that you have faith and confidence in between the incomes of the rest of Egg Harbor Township in terms of median household income and that for Seaview Harbor. Special Board Planner Wisner stated asked and answered. Special Board Planner Wisner stated for the umpteenth time I cannot rely and he is asking the board not to rely on the census data within his report. Attorney Doyle asked this includes Page 278. Special Board Planner Wisner asked if it is in his report. Attorney Doyle stated yes. Special Board Planner Wisner stated asked and answered. Attorney Doyle asked if there is any income data in Special Board Planner Wisner's report that is not census driven. Special Board Planner Wisner stated he does not believe so.

Board Member Eykyn stated if I own two (2) homes and I report to census is it for both home's or just the main home. Special Board Planner Wisner stated it is his understanding the census forms are mailed to your primary residence. So if you own two (2) homes in Egg Harbor Township but live in one (1) then it would be mailed to the one you live in. He stated similarly if you owned a home in Florida and your domicile is in Florida than it would be a Florida based census report. Board Member Eykyn asked what about the homes that are empty. Special Board Planner Wisner stated it would call into question

whatever number it is. He indicated he does not know if it would be a -0- or a non-reported. He indicated he does not know how that deal with that. Board Member Eykyn stated so we would not know what the median income is for the summer homes in Longport or Egg Harbor Township. He indicated they are not part of that \$74,214.00. Attorney Doyle asked Special Board Planner Wiser if he knew this information based upon the questions from the Board just now why did he have Dr. Perniciaro testify. Special Board Planner Wiser stated because he did not tell Dr. Perniciaro what to testify to.

Attorney Doyle stated he would like to discuss CRS more specifically Pages 111 -122. He then read onto the record a portion of paragraph 3 from item D on Page 111. He asked Special Board Planner Wiser if any of the residents said the premium was too high. He asked did they not testify they would have a 25% reduction if they are part of Longport. Special Board Planner Wiser stated he recalls people testifying it was too high. Attorney Doyle asked what does Special Board Planner Wiser use to determine what people said. He asked notes. Special Board Planner Wiser stated yes. Attorney Doyle asked if he read the minutes. Special Board Planner Wiser stated he does read the minutes, however, he does not know if he read them on this particular issue.

Attorney Doyle stated in any event Egg Harbor Township did not have CRS. He asked if they have now. Special Board Planner Wiser stated he is not sure. Attorney Doyle asked if he knows when it was applied for. Special Board Planner Wiser stated it is within his report. He indicated he is not sure when it was submitted by there was lengthy testimony and exhibits of the Township's efforts to get itself enrolled in the CRS program. Attorney Doyle stated Mr. Miller's testimony. Special Board Planner Wiser stated no he means Mr. Watkins package that laid out various efforts that he did.

Attorney Doyle stated Mr. Watkins did not testify the information was put in by Mr. Miller. Special Board Planner Wiser stated it was his email. Attorney Doyle then read a portion of the 1st paragraph of (item D), Page 118. He then asked Special Board Planner Wiser which resident misrepresented and what did they say. Special Board Planner Wiser stated there was a map that was marked as an exhibit that had no legend. He stated it was a map of New Jersey with towns colored and the statement was these towns do or do not participate in the CRS program. He stated the petitioner's exhibit was taken from a FEMA website and when Mr. Miller submitted the entirety of the map including all notations on the map and that map did not reflect what the petitioner's said it reflected.

Attorney Doyle stated Special Board Planner Wiser statement was that the petitioner's misrepresented Egg Harbor Township's status. He indicated we all know the status. They are in the NFIP but they are not in CRS. He asked if this is accurate. Special Board Planner Wiser stated at the time that statement was accurate it was not the inference that the petitioner's made when they were saying the Township was negligent with respect to coastal communities and its responsibilities for flood insurance. Attorney Doyle stated he asked who said it and now advise no one said it was an inference.

Special Board Planner Wiser stated no. They made statements along the lines of what he just said that the Township was negligent. Attorney Doyle asked if Special Board Planner Wiser could point out the person, name the person, the meeting that it was said. Special Board Solicitor Marcolongo stated take a pause to review. Attorney Doyle stated he is withdrawing the question. Special Board Planner Wiser stated he will answer the question. He advised the map he discussed in report was S61 and Mr. Miller presented an exhibit that included all the various notations around this map. He advised S61 was marked on July 21, 2014, again he is not sure who it was but could go back and look.

Attorney Doyle asked if not the Township's participation in FEMA flood insurance program best described that they are not in the NFIP program but as of yet not in the CRS problem if he knows. Special Board Planner Wiser stated at the time this topic was discussed they were not accepted in the CRS program but were working through. Attorney Doyle asked did anyone say they were not in the NFIP program. Special Board Planner Wiser stated the assertion at the time was not whether the Township was in and of itself in or out but that the Township was one of the only coastal communities that was not in and the map he had just show was submitted to support that. But it turns out that map does not say what it was purported to say when you look at it in the context of the legends and the entirety of the record.

Attorney Doyle stated when he presented Special Board Planner Wiser S88 and he advised that was not what he was looking for. That was a document put in by the petitioners to show who was in the CRS program and who was not. Special Board Planner Wiser stated the document he is talking about was an earlier one given the gap in the numbers. Attorney Doyle stated in terms of the municipalities that are in the CRS program which was testified to and what S88 supplemented was that every coastal impact community from Brigantine to the tip of Cape May other than Wildwood is in the CRS program. Special Board Planner Wiser stated he does not recall.

Attorney Doyle asked if there is anything significant or unusual for a community such as Egg Harbor Township to be in the national flood insurance program. Special Board Planner Wiser stated he would not think so. Attorney Doyle asked Special Board Planner Wiser is it not true that almost every municipality in the State of New Jersey is a part of it because you cannot get flood insurance as a resident of a town that is not in the NFIP. Special Board Planner Wiser stated he simply does not know the answer to that.

Attorney Doyle stated the inference he got from Special Board Planner Wiser report was given Township short shift. That they are in the NFIP and they are trying to get into the CRS program and to say anything else is a misrepresentation. Special Board Planner Wiser stated that is fairly close. Attorney Doyle stated that being said if he told Special Board Planner Wiser that there are 552 communities that participate in the NFIP and only four (4) that do not then that is not something that is unusual than. They are just doing what they are supposed to do. Special Board Planner Wiser stated he has no comment for that. He could not answer one way or the other. Attorney Doyle stated every community in Atlantic County is a part of the NFIP. Special Board Planner Wiser stated he does not know.

Attorney Doyle while Special Board Planner Wiser does not know who is in the NFIP or willing to make comments based upon some map that is inconsistent with something Mr. Miller commented on that somehow the petitioners misrepresented. Special Board Planner Wiser stated yes. Attorney Doyle advised this is your inference and your judgement of the petitioner's attitude. Special Board Planner Wiser stated he thinks the record would back this up. Attorney Doyle stated but cannot cite anything else in the record other than the map. Special Board Planner Wiser stated the map submitted by the petitioners that is not a full representation conversation of the map that should have otherwise be submitted and sitting through the testimony and hearing the assertions of the petitioner's.

Attorney Doyle asked if Special Board Planner Wiser heard when Mr. DaBek placed the map in he said it was inaccurate. So Mr. Miller was not correcting anything that was misstated. Special Board Planner Wiser stated he does not recall and then asked why would he put in a map. Attorney Doyle stated he does not answer questions. Special Board Planner Wiser again asked why would you place a map in that is inaccurate. Attorney Doyle stated if you indicated the map producer, produced it wrong and 95% is

right and you point out where it is wrong and the documentary evidence you provide supports that where is the error. Attorney Doyle asked if the CRS is to provide for a higher level of flood protection in excess of what the NFIP does. Special Board Planner Wiser stated on the CRS website there is a purpose section but the CRS program is designed as a carrot for communities to voluntarily make up grades to its flood infrastructure including improvements to dwellings by way of discounts on the flood insurance at a stage level. Attorney Doyle so a municipality that has a CRS program is better flood risk protected through the efforts of that program than they would have been if only in the NFIP program. Special Board Planner Wiser stated that is the goal. Attorney Doyle that has been the goal for some residents and report writers that had the Township Special Board Planner Wiser stated if he understands he questions yes, he thinks so. Attorney Doyle stated and in 2016 they still do have it. Special Board Planner Wiser stated he does not know if they have it as we sit here today.

Attorney Doyle he indicated and they did not have it back than because it would be over \$15,000.00 and only benefit 400 hundred homeowners at \$25.00 apiece. He advised it is in Special Board Planner Wiser Special Board Planner Wiser report as a footnote on page 113 footnote 166. Special Board Planner Wiser stated he would like to look at. He indicated the issue was, as described by Mr. Miller, a \$15,000.00 expenditure required to enter the program. To benefit 400 eligible participants not being clear how many would have elected to participated.

Attorney Doyle asked if Special Board Planner Wiser can explain the difference between Mr. Miller's state of 400 effective properties and yours of 846 on Page 120 of his report who do not have the benefit of CRS. Special Board Planner Wiser stated he thinks there were 400 effect people when they first looked at CRS in 2000 or 2002 time frame and that report on Page 120 is based on 2015 information; post Sandy. Attorney Doyle stated he recalls Mr. Miller indicated Sea Isle does not participate as Mr. DaBek indicated. He asked is it not true that Sea Isle participates as referred to Exhibit S88 participate in the CRS program. Special Board Planner Wiser stated if that is what your statement says. He does not remember that specific discussion. He then reviewed S88 and indicated they are in there. Attorney Doyle stated they have been in there since 1992. Special Board Planner Wiser indicated that is what it says.

Attorney Doyle asked Special Board Planner Wiser how did he do his research to get the data to reach the conclusion that Seaview Harbor residents may save money in comparison to becoming a part of Longport. He then rephrased his question. He asked Special Board Planner Wiser what did he do in way of research to get the conclusions he reached and the schedule he gave on Page 120. Special Board Planner Wiser stated footnote 175 gives the FEMA report. Attorney Doyle asked Special Board Planner Wiser if it looked at for all of it or just the first few pages to put out the matrix found on Page 120. Special Board Planner Wiser stated his recollection is he only used the Atlantic County section of report.

Attorney Doyle stated on Page 118 Special Board Planner Wiser says "no evidence has been submitted indicating the actual flood insurance premiums paid by Seaview Harbor residents". He asked Special Board Planner Wiser how he derived that sweeping conclusion that no evidence was submitted. Special Board Planner Wiser stated no evidence was submitted. He asked if he has an exhibit. Attorney Doyle stated he does not have an exhibit. He was curious how he got to it and asked if stands by the statement. Special Board Planner Wiser stated unless he can show him evidence in the record he does not recall any. Attorney Doyle asked if Special Board Planner Wiser if he remembers Scott Kinney testifying. Special Board Planner Wiser stated he remembers him testifying. Attorney Doyle then read from the June 30, 2014 minutes, Page 10, concerning Mr. Kinney's testimony concerning flood insurance premiums. Attorney Doyle asked if this is not evidence that was presented.

Special Board Planner Wiser noted this was one person. Attorney Doyle stated but it is indicative of what would happen is it not. Special Board Planner Wiser stated he does not know that because he does not know what type of property he has versus some of the other properties and how that coverage would be applied. Attorney Doyle stated if they are in a CRS town, in a flood zone, and they want to get the benefit of Bigger-Waters and they want to get the CRS discount they get it do they no. Special Board Planner Wiser stated the discount. He advised what that discount translate to a dollar factor he does not know. Attorney Doyle stated based on what Mr. Kinney indicated it would have translated to \$160.00 correct. Special Board Planner Wiser stated again we do not know specifically where he lives, what kind of coverage he has, what kind of house he has to be covered, he does not know what the finish floor elevation, and he does not know how you would rate his house. Attorney Doyle stated in fact you have to rate. Special Board Planner Wiser stated an insurance copy would.

Attorney Doyle asked Special Board Planner Wiser if he looked at the NFIP bulletin to look at how many individual rating classifications there are. Special Board Planner Wiser stated no. Attorney Doyle asked if they are all different then why did Special Board Planner Wiser use an average to suggest or infer that that they are better off staying in Egg Harbor Township. Special Board Planner Wiser advised no evidence has been submitted to show indicating the actual flood insurance premiums paid by the residents of Seaview Harbor or the actual premiums paid by the Longport residents or if deannexation would result in a premium reduction below the \$968.00 level. Attorney Doyle asked what is the \$968.00 level. He then referred to Page 120 of Special Board Planner Wiser report to be helpful. Special Board Solicitor Marcolongo also suggested Special Board Planner Wiser read the last paragraph on Page 118 that rolls over. Special Board Planner Wiser then read onto the record the last paragraph on Page 118 of his report which referred him to Report Table E.

Attorney Doyle asked from looking at this is Special Board Planner Wiser saying every person in Egg Harbor Township pays \$916.48. Special Board Planner Wiser stated no that is an average. Attorney Doyle asked what relevance does an average have to do to an individual home owner. Special Board Planner Wiser he indicated the relevance is these are the statistics that are provided and you have to use what is available to you as we learned earlier tonight. He indicated this is a FEMA table that tells us the average policy in Egg Harbor Township and Longport. Attorney Doyle stated by looking at the average you would infer they would do better staying in Egg harbor Township rather than going to Longport where the percentage is higher. He asked if this is not what Special Board Planner Wiser is suggested via his last paragraph on Page 120. Special Board Planner Wiser stated yes. He advised he is saying Longport's premium is higher than the Township's. Attorney Doyle stated that is not because they are in Longport it is because there average is higher. Special Board Planner Wiser indicated that is what he said.

Attorney Doyle stated that may be because the homes there are insured at a higher amount or any of the other 14 classifications. Special Board Planner Wiser stated it could be he is going by the average. Attorney Doyle asked what relevance does the average have. Special Board Planner Wiser stated the average is the only benchmark we have to make a comparison. Attorney Doyle asked Special Board Planner Wiser if he remembers Mrs. Frick testifying. Special Board Planner Wiser stated he remembers her testifying. Attorney Doyle began reading onto from Page 11 of the July 21, 2014 planning board minutes Mrs. Frick's testimony and for a moment added this is Mrs. Frick's second home which results in a higher classification and thus a higher premium. Special Board Planner Wiser stated that is his understanding. Attorney Doyle continued reading onto the record from the minutes previously noted.

Attorney Doyle stated when he questioned Special Board Planner Wiser about issuing a report where he said no one testified and we now have two (2) people who did. Special Board Planner Wiser stated this is two (2) instances and since we do not have all the people we have to go by what we have and cover what we can. Attorney Doyle stated when Special Board Planner Wiser states we have to go by is there any question that all the Seaview Harbor residents qualify by reason of their location for the benefit if the Township gets into the CRS program. Special Board Planner Wiser stated he would suppose but if the Township is not in the program they will not get the benefit. Attorney Doyle asked if they are going to be rated differently as a resident of Longport when they have the same elevation, seasonality, same height, same amount of insurance their going to seek. Special Board Planner Wiser stated the question is how a town gets to a particular rating and whether Seaview Harbor's location in one town versus another would impact the rating. He does not know the answer to that. Attorney Doyle stated Special Board Planner Wiser does not even know if it would impact the rating. Special Board Planner Wiser stated no. Attorney Doyle stated so if it does not impact the rating, Attorney Doyle than took a moment and read onto the record the 14 classifications. He asked Special Board Planner Wiser if any of these classifications do not change if they are in Longport or Egg Harbor Township do they. Special Board Planner Wiser Special stated they do not change but may change the profile for the particular town and its level of CRS it can achieve.

Special Board Planner Wiser stated again he does not know if the CRS program is active in Egg Harbor Township. Attorney Doyle asked if Special Board Planner Wiser did not think it was important to find out. Special Board Planner Wiser stated it is footnoted in his report of the anticipation of when to be enrolled but not sure where the Township is now. Attorney Doyle stated but Special Board Planner Wiser does know that by Mrs. Frick by not being in it in 2016, according to her testimony is losing, a ¼ \$6,577.00. Special Board Planner Wiser stated that presupposes if Seaview Harbor were in Longport they would continue to enjoy the 25%. He stated he does not know if that is the case. Attorney Doyle asked how does Special Board Planner Wiser know either way. He asked what has Special Board Planner Wiser researched what he researched to even know this is an issue. He indicated these ratings are nationwide. He asked what makes Longport different than Egg Harbor Township. Special Board Planner Wiser stated it is pretty clear that Longport has achieved a 25% reduction over the course of time it has participated. He stated the addition of Seaview Harbor would change the profile of Longport and whether that has an impact he does not know.

Board Member Rosenberg asked if Mrs. Frick's estimates are correct. Attorney Doyle then read into the record Mrs. Frick's comments again. Attorney Doyle stated he has no reason not to believe Mrs. Frick testifying was accurate but he does not know the numbers. Attorney Doyle asked Planner Special Board Wiser can he cite any evidence about this profile he claims could change. Special Board Planner Wiser stated it is just common sense. Attorney Doyle asked Special Board Planner Wiser to tell him the fact that it will change. Special Board Planner Wiser indicated he did not state it would change but he cannot give with certitude it will or will not change and the petitioner's cannot say with certitude what the impact on their flood insurance will be. Attorney Doyle stated he wants to be clear. He does not believe it can change nor does his clients nor are there any facts shown that it would other then Special Board Planner Wiser allegation of common sense. He stated whatever it is. If it were to drop to 20% it is still more than -0- is it not. He indicated a 20% savings is a savings. He advised staying in Egg Harbor Township right now does not get you savings.

Special Board Planner Wiser stated the question is whether that 20% or whatever the percentage is put you over or under what you would be paying in Egg Harbor Township. He does not know. Attorney Doyle asked if Special Board Planner Wiser is going back to the average. Special Board Planner Wiser

stated if you took the average, he then interject and stated before he forgets, if you look at footnote 169 he spoke with Mr. Miller as he drafted this and he does not have a date on it, but gives a date for a May, 2016 enrollment in CRS. Attorney Doyle asked Township Committeewoman Pfrommer if the Township is in the CRS program. Township Committeewoman Pfrommer stated it is ongoing and we will let you know. Attorney Doyle stated the profile that could change has to do with enforcement does it not, such as how a municipality enforces its building code. Special Board Planner Wiser stated there is lot that takes into consideration such as elevation, how much water front property you have, if it is bulk heading. Attorney Doyle asked of all the things that Special Board Planner Wiser just said might not change anything and the 25% stays. Special Board Planner Wiser stated he does not know.

Attorney Doyle stated Special Board Planner Wiser went through a drill concerning I.S.O., within his report. He asked if there was any testimony that dealt with the I.S.O. He then referred to Page 121 of his report. Special Board Planner Wiser stated it came up in one of the fire chief's testimony. Attorney Doyle asked Special Board Planner Wiser that he cannot translate this into dollar difference like he did with the CRS averaging. Special Board Planner Wiser read through this section of his report. He stated he does not have specific dollar impacts. Attorney Doyle went back to Mrs. Frick's and Mr. Kinney's premium amounts. Stating there is a wide spread difference so what do averages matter. He indicated every policy holder in a non-CRS would save being in a CRS town and the only difference is how much more insurance they would have paid but for the premium. He indicated for Mrs. Frick who is a seasonal resident and Mr. Kinney who is not and Mrs. Frick who has a larger home and all the other reasons that make her a higher payer so aren't the averages irrelevant. Special Board Planner Wiser stated the averages is all we have to go by. He indicated Attorney Doyle as two (2) out of 92.

Attorney Doyle stated if he asked each one of them how much they pay the fact is if they had 20% to 25% rather than -0- they would save money. Special Board Planner Wiser stated they may or may not save money based on what the flood insurance is in Egg Harbor Township. He stated he does not know if they would save money. Attorney Doyle asked Special Board Planner Wiser if he is saying the same house changes because of the town they are in. Special Board Planner Wiser stated he would imagine the same house being in Longport that is surrounded on three (3) sides by water would have a different flood insurance formula than a house in Seaview Harbor. Attorney Doyle asked if that is Special Board Planner Wiser imagination not his knowledge. Special Board Planner Wiser stated it is common sense. Attorney Doyle stated it is flood policies and other than reading the first could pages to put in an average that has no relevance does Special Board Planner Wiser know this from a premium doctrine that he can cite a page and chapter. Special Board Planner Wiser stated the burden of proof is on the petitioner's not on him. He indicated Attorney Doyle did not put in any data. He indicated Attorney Doyle's clients put in statements that they would be better off with flood insurance if they were in Longport. He indicated he does not know that is a fact. He stated Attorney Doyle did not place in what everyone pays and how they would be impacted. So absent the record that was not created he had to go by what was available and that was the averages.

Attorney Doyle stated what Special Board Planner Wiser indicated was not available is because he did not recall two (2) representative citizens testifying about their actual losses. Special Board Planner Wiser stated he does not consider two (2) out of 92 to be representative. He does not know anything about they live in and if you were to compare two (2) identical houses and one is a second home and one is a primary there is no way to calculate that out. He indicated we do not know.

Board Member Aponte asked can anyone other than FEMA say what that number is. Special Board Planner Wiser stated he does not believe it is a FEMA issue. He advised he believes it is an individual

insurance company and coming out with a premium number for a house on a property because you can get different numbers for the exact same coverage from different insurance companies. Attorney Doyle asked Special Board Planner Wiser that he knows for a fact the insurance companies do not have to follow a book for each individual State with respect to flood insurance. Special Board Planner Wiser stated he does not know that as a fact. Attorney Doyle added in terms of burden of proof Special Board Planner Wiser is right. The petitioners have the burden of proof and he added Special Board Planner Wiser has the burden to show this testimony is right.

Attorney Doyle stated Special Board Planner Wiser indicated he has done research on his own and in this case he has done it often such as the census information with Dr. Perniciaro, the police time, the I.S.O that was not raised by the petitioner. Special Board Planner Wiser stated it was brought in by the fire officials concerning fire safety and the hydrants that his petitioners did raise. Attorney indicated all these new areas and frankly he believes and so does his clients are finding new things to help the municipality deny the petition. Special Board Planner Wiser stated he did not bring in any new topics. He commented upon topics either the petitioners raised or one of the Township witnesses raised. He indicated he did not manufacture.

Attorney Doyle stated Special Board Planner Wiser provided the census information. Special Board Planner Wiser stated no. He indicated Ms. Cuvillo provided and Dr. Perniciaro. Attorney Doyle stated another area Special Board Planner Wiser went into was a 43 page dissertation on the law and the cases. He stated was Special Board Planner Wiser not retained in this matter the same as the Strathmere case. Special Board Planner Wiser stated yes, he supposes. Attorney Doyle stated in the Strathmere case the impact report took up 6 pages and pages 6 – 11 he mentioned the Avalon case. He asked what was different about this that he went into every case, every level it was tried at, every decision, etc.. as a non-lawyer. Special Board Planner Wiser advised in the Strathmere case he did not produce a report. He indicated the report was produced by Special Board Solicitor Marcolongo. He added there was an object from the lawyer in that case with his view of the law and the court ruled it was appropriate. Attorney Doyle stated he is not speaking of the report Special Board Solicitor Marcolongo wrote he is talking about Special Board Planner Wiser's report. Special Board Planner Wiser stated he did not issue a report. Attorney Doyle stated Special Board Planner Wiser is right and he has been corrected. What he read concerned a power point presentation and that had 6 pages on the law and there was the objection. He asked why to the extent here. Special Board Planner Wiser stated he is not going to speak as to what he did at that particular time to the context of this time. He stated his job is process the testimony and exhibits and to do an analysis for the board. He indicated part of what he thought they would benefit from is an analysis of the relevant court cases to see and to provide a context as to why his report was structured the way it is.

Attorney Doyle stated Special Board Planner Wiser did not cite Judge Armstrong's opinion that he has mentioned as to the function of the board. Special Board Planner Wiser stated no it was preliminary. Attorney Doyle stated Special Board Planner Wiser cited a number of deannexation cases and we are aware rare but there are deannexation cases that are not cited that Special Board Planner Wiser is aware of. Special Board Planner Wiser stated no, these are the only ones he is aware of. Attorney Doyle then read from a transcript in which he questioned Mr. Miller concerning deannexation cases, specifically concerning Westmont Shores Case and uninhabited islands of Toms River that went to Seaside Heights. He then asked Special Board Planner Wiser having hear this questioning he knew there were two (2) other cases. He asked Special Board Planner Wiser if he did anything about finding out about those two (2) cases. Special Board Planner Wiser stated he does not remember hearing about those cases and he did nothing.

Attorney Doyle stated one of the cases dealt with uninhabited islands and West Point Island that Special Board Planner Wiser identified as a ¼ of a square mile practically contiguous to Lavalette. Is in fact an island is it not. Special Board Planner Wiser stated he really does not know. Attorney Doyle never looked at a map to see if West Point Island is really an island. Special Board Planner Wiser stated no. Attorney Doyle indicated it is an island. He asked with that representation did any level of the courts that reviewed the West Point Island case where an island or a portion of an island could be deannexed.

Special Board Planner Wiser stated the thought we were not discussing this. Attorney Doyle stated this is not a question about the merits of Special Board Planner Wiser argument. It is about the biased in raising it when you knew in your research that courts had not commented or questioned whether an island could not deannex. Special Board Planner Wiser he indicated from reading the various decisions the issue was never raised. No one ever raised an issue. Special Board Solicitor Marcolongo asked do we not know from the Attorney Doyle's case, the Lavalette case that a portion of an island was allowed to deannex. Attorney Doyle stated he does not believe it is that unless you consider taking a barrier island from Point Pleasant Beach down to Island Beach State Park and separated from the Barneget Bay.

Attorney Doyle stated when Special Board Planner Wiser indicates there are no other cases is he not involved in the matter where South Seaside Park is seeking to be deannexed from Berkley Township. He asked if it is not true that case was previously before the courts and South Seaside Park won and Berkley was required to deannex them and there is a written opinion the attorney tried to put into evidence. Special Board Planner Wiser stated there was some question about whether something could be put into evidence and that was disallowed. He stated he does not remember saying these were the only cases. Attorney Doyle stated they were the only ones he was familiar with and he just cited three (3) more Special Board Planner Wiser is familiar with. Special Board Solicitor Marcolongo asked if all were published cases. Attorney Doyle stated as non-published as Strathmere. Special Board Solicitor Marcolongo stated understood but they were unpublished cases and were not approved by the Supreme Court or the appellate division.

Attorney Doyle stated Special Board Planner Wiser keeps citing a standard in the Avalon case that was taken from the trial level in Avalon that was not in the appellate opinion. Special Board Planner Wiser asked what page are we at. Attorney Doyle then read onto the record from Page 45, item 4 (a). He stated that language appeared at the trial level, but as Special Board Solicitor Marcolongo pointed out there are higher courts and it is not in their opinion is it. Special Board Planner Wiser stated no, it was not refuted by the higher court. Special Board Solicitor Marcolongo stated in fact the higher court quoted liberally from Judge Perkie's decision. Attorney Doyle stated exactly. Special Board Planner Wiser stated he quoted from a portion of a decision that was supported on appeal in what was termed "a thorough and well-reasoned decision" by the appellate division. Attorney Doyle stated they aid the same thing about Strathmere did they not. Special Board Planner Wiser stated because both Judges were brilliant.

Attorney Doyle asked if it is not true that in the Avalon case and it went on for several pages that they adopted the entire analysis from pages 6 to 8 of Judge Perkie's opinion and they quoted at length and when they got to page 9, which is Judge Perkie's conclusion they omitted that did they not. Special Board Planner Wiser stated he supposes. Attorney Doyle stated so the board is clear this is why you have a different courts. He noted Special Board Planner Wiser stated it was not refuted. He indicated the appellate division does not confirm, refute, or reject they issue an opinion and that is what is binding. He will acknowledge in the Strathmere case and the Bay Beach Way case they did not make a written decision and they affirmed. He indicated in Avalon they did not do this. They issued their own

opinion and quoted from Judge Perkie's analysis but omitted and he would suggest at this level and every other level deliberately and that can't form the basis or the standard as it did in Special Board Planner Wiser report for the board's findings.

Special Board Solicitor Marcolongo stated he would suggest to the Board while the appellate case is binding the trial court case is available for reference and the rationale the trial court used is there for the board to make their decisions. Special Board Planner Wiser stated he would like to add from reading through these cases the appellate division will say they cannot support the lower courts statements, rationale, or judgement on this matter the court did not do that. Attorney Doyle stated the higher authority is what binds. Attorney Doyle stated Special Board Planner Wiser just mentioned in the Strathmere case the court stated it was a well-reasoned opinion which was case where deannexation was denied. He indicated in the Bay Beach Way case, where it was approved the appellate division said "we are satisfied that there is a sufficient, creditable evidence in the record to support the decision of the trial court and we affirm substantially for the reasons set forth in Judge Vincent J. Grasso's extensive and well written decision". He asked why in the Strathmere case when they found against he put that in his report but omitted it when he discussed the Bay Beach Way case.

Attorney Doyle advised so that it is on the record. Judge Grasso did retire and he is now with Attorney Doyle's firm before there is some reaction to that. He advised this was five (5) years ago and he has been at the firm less than a year and goes to the question that he asked. Board Member Aponte stated so the Judge in the Bay Beach Way case is now with Attorney Doyle's firm. Attorney Doyle stated he is coincidentally.

Special Board Planner Wiser stated he does not know why he did not use it. Attorney Doyle stated Special Board Planner Wiser did not only not put that but on Page 67 of his report he says the court acted contrary to the decision in the Avalon Manor. He stated this is Special Board Planner Wiser judgement. May the record reflect after Special Board Solicitor Marcolongo asked where this is said Attorney Doyle then read where he speaks of then referred to Page 67 and read the last sentence from the first paragraph and thereafter noting he also speaks of Judge Perskie within the footnote of the sentence.

Special Board Planner Wiser stated yes. Attorney Doyle stated in Special Board Planner Wiser he indicated it was reversed. Special Board Planner Wiser stated he did not say that. Attorney Doyle advised Special Board Planner Wiser indicated it was contrary. Special Board Planner Wiser stated Avalon Manor said one thing under a certain amount of facts. This court said another thing at a certain set of facts and did not follow the same formula. He indicated that is contrary, however, he absolutely did not say, mention, or infer that the court attempted to overrule. Attorney Doyle asked did not the court in the Bay Beach Way case say, which he then cited from "a trial court analysis that weighed and balanced the detriments and benefits that would flow from deannexation of the subject property and the Township was met with approval by the appellate division in Avalon". He stated the Bay Beach Way case exceeded to that balancing test in the Avalon case. He stated is that not the balancing that has to be done by this Township. He indicated weighing both benefits and detriments to the Township and the residents. Special Board Planner Wiser stated absolutely.

Attorney Doyle stated in the fullness of Special Board Planner Wiser report he did not mention that the Bay Beach Way case was appealed to the Supreme court. Special Board Planner Wiser indicated he tried to find that out. Attorney Doyle stated all he had to do was ask. He stated certification was

denied. Special Board Planner Wiser stated he asked the Greg McGuttin who is the Attorney in the Berkley case and whom was on the Toms River Council at the time and he indicated they did not appeal.

Attorney Doyle stated Special Board Planner Wiser previously worked for this Township for the redevelopment plan and he has a report dated June 2, 2009 and listed those members who are still on the board. He then indicated Special Board Planner Wiser had rendered opinions before about this area seeking deannexation during the Strathmere case. He then provided a transcript to Special Board Planner Wiser to review and pointed to the area that he wanted him to read.

Attorney Doyle stated in commenting upon the propriety of Strathmere petition position Special Board Planner Wiser stated typically that is the way it is. You look at many, many town's barrier islands up and down seaboard. He then goes on to say there is West of Atlantic City, he continued saying just like Egg Harbor Township has sections of it that are totally disjointed you have West of Atlantic City, an area coming of the island you go through between Longport and Somers Point. That is all Egg Harbor Township. It is managed well not to say there are not any problems. There are problems everywhere and there are other disjointed sections of municipalities. It happens. It does not mean it is good, it does not mean it is bad it all depends on how things are managed.

Attorney Doyle asked if there is not a suggestion in the transcript that this area is not appropriate for deannexation. Because it was well managed. Special Board Planner Wiser stated the answer is no and there was no thought at that time of deannexation from Seaview Harbor. He indicated it is a line that he put in that talked about disjointed municipalities. Attorney Doyle stated but Special Board Planner Wiser went on to say it is the way it is managed in a deannexation case. That management was the test and the quality of the management. Special Board Planner Wiser indicated his sense was a little broader than that. He asked Attorney Doyle what was his question. Attorney Doyle asked if this is Special Board Planner Wiser testimony. Special Board Planner Wiser stated yes it is his testimony.

Special Board Solicitor Marcolongo stated the question was is management the test. Special Board Planner Wiser stated to the extent management means a quality of life and quality of life goes to detriment or not. It is part of it, not all of it. Attorney Doyle asked Special Board Planner Wiser if he would agree with this statement. Seaview Harbor is a small isolated community located on a strip of land connect the Borough of Longport with the City of Somers Point while an incorporated component of Egg Harbor Township it is physically separated from the main body of the Township by Somers Point and local bay waters. Such separation has caused certain Seaview Harbor residents to desire to secede or in the words of the State statute governing such activities to deannex from the Township and incorporate with Longport. Special Board Planner Wiser stated it is a factual summary of the events.

Attorney Doyle stated so the board might be clear where that came from it is a part of your letter penned to and became part of your contract. So you think it is a fair statement. Special Board Planner Wiser stated it is a brilliant statement and described the situation as he understood it then and still does. Attorney Doyle stated Special Board Planner Wiser indicated said that regardless of the tax implications back and forth to either the residents of Egg Harbor Township or Seaview Harbor it is still a loss. He then asked if him if he would not agree with this comment. Attorney Doyle then stated: When I add up all the properties I figure are at risk in places such as West Atlantic City and Seaview Harbor I came to about 500 homes and we have about 14,000 homes in the Township so even if all of them were, God forbid, demolished I don't think it will change our end result. Special Board Planner Wiser asked what was the context. The end result of what. Attorney Doyle stated it was in context of a newspaper article following the reassessment, at that time on December 4, 2012, recently completed

and came post Sandy. Special Board Planner Wisner stated he does not know the context of the statement, he is not sure he would make that statement and he cannot opine one way or the other. Attorney Doyle advised the statement was made by Maryanne Lavner, the Egg Harbor Township Tax Assessor.

Attorney Doyle stated he has no further questions but he would ask certain items to be marked as evidence or marked for identification. Special Board Solicitor Marcolongo stated additional documents with no questions or foundation it is not appropriate for the Board to receive supplements at this time. Attorney Doyle stated he will make as an offer of submission. He stated they have been commented on and formed part of our case. Attorney Doyle stated one is the documentation that went back and forth between himself and Board Solicitor Marcolongo concerning the recusion of Mr. Miller the letters being dated March 25, 2014 and March 26, 2014. Special Board Solicitor Marcolongo stated it has no relevance on this board's duty to issue an impact statement as to the effect of deannexation and does not think it is appropriate to enter document.

Attorney Doyle stated he spoke at length and gave case law about the role of a recused member to Special Board Solicitor Marcolongo he then advised the Board as to the reasons why he asked for Mr. Miller to be recused. He indicated the letters explain what would happen and what he understood would happen, or whether it happened that way or not the letters set a foundation for the argument that he would make and speak to Judge Armstrong. He indicated he believes it would be arbitrary not to allow them to make this part of the record.

Attorney Doyle stated he would also like the assessor's comments and the three (3) pages of the transcript presented to Special Board Planner Wisner also placed in. Chairman Garth stated if it is in the transcript would it not automatically be in the record. Attorney Doyle stated that is a fair point. He asked Special Board Planner Wisner if in Berkley Township is there not a transcript. Special Board Planner Wisner stated yes. Attorney Doyle stated that is being paid by the Township. Special Board Planner Wisner stated that is his understanding but he does not 100% know. He advised the Berkley Planning Board as a matter of course retains a court reporter on every application and the court report provides the transcripts as a matter of operating procedure.

Special Board Solicitor Marcolongo stated if the case goes to court transcripts will have to be obtained. He indicated there is no obligation to obtain the transcripts ahead of time and Attorney Doyle has obtained transcripts when he has deemed it appropriate. Chairman Garth stated at the beginning of these hearings he knows Attorney Doyle asked for Mr. Miller to recuse because of his close ties with the municipality. Board Member Aponte stated Attorney Doyle made the recommendation at that time and will take the opinion of Special Board Solicitor Marcolongo. He indicated the record will speak for itself. Chairman Garth stated it is in the minutes. Attorney Doyle stated it is in the minutes that he asked him to be recused because he was going to be a witness, you cannot be in two (2) places, and that he had already formed an opinion on the matter before the first hearing was held. Chairman Garth stated this was made clear. Attorney Doyle stated the missing part of this is within his letters back and forth to Special Board Solicitor Marcolongo is that once a person recuses themselves they have to walk away. He indicated he does not believe the fullness of the record reflects the legally required walk away from a recused member and in the setting of a deannexation petition.

Freeholder Carman stated if they are marked for identification how will they aid us in our decision. Special Board Solicitor Marcolongo stated they will not. Freeholder Carman stated than he agrees with Special Board Solicitor Marcolongo they should not be put in and if this goes the way Attorney Doyle

wants it is a moot point. He indicated if it does not it is something for him to take up with the courts. Attorney Doyle stated he believes it is an arbitrary decision.

Attorney Doyle noted the jurisdictional issues raised by Special Board Planner Wiser and made lawyer like opinions and this should be taken out of the record. He stated it was not discussed in the 20 some hearings. He indicated he believes this is beyond the authority of this board and the petition was accepted. He stated it is a matter for the Township Committee and it is not a matter Special Board Planner Wiser should not have commented on. Freeholder Carman stated it should be left in and given the appropriate weight. He stated, and he can only speak for himself, if this was a valid argument we would not be sitting here. Attorney Doyle stated no. You would be because the board does not have the capacity to dismiss a deannexation petition. The suggestion to leave in means you are going to put in 40 pages of factual legal argument from your Planner that he could not cross examine. He stated he cannot think of a more arbitrary thing to do.

Special Board Solicitor Marcolongo stated you cannot say you do not want to have testimony on it and then argue you could not cross examine. He stated Attorney Doyle had spoken with Special Board Solicitor Marcolongo and this board is to report on the impact deannexation on Seaview Harbor and the remainder of the Township. The impact not the jurisdictional issue. He indicated he understood that and we put it aside. He advised it is part of Special Board Planner Wiser report it Township Committee determines to examine that part of it and make a determination, which he is not sure they have the authority to make a jurisdictional determination at this point or not. He does not know. He indicated we did nothing with it and we will pass along and let Township Committee decide.

Attorney Doyle stated that is up to the Township if they want to hear from Special Board Planner Wiser. He indicated it is not up to this board to place things in evidence. He indicated this is the height of arbitrariness. Special Board Solicitor Marcolongo stated the totality of the report should be part of the record and it is forward to Township Committee and they do with it what they will. He stated again, as he stated he does not know if they can do anything at this point jurisdictionally. Freeholder Carman stated he agrees.

Attorney Doyle stated he also does not understand why the census information is going in. He believes Dr. Perniciaro's report, which has -0- weight it should not be in. He indicated there is other pages in the report that should have references. He indicated it if is going to be accepted in its entirety then the census information should not be part. Special Board Marcolongo stated that should be a finding of fact of what is not going to be accepted. Attorney Doyle stated there are some significant issues raised in this report such as census data and other items.

Special Board Solicitor Marcolongo stated with professional planners they are given a job to do and the meld law into that. He indicated Ms. Cuvillo made comments concerning the Ryan case, though Special Board Planner Wiser information was a little more their professional training does provide them a little leadway. He further noted he agrees with Attorney Doyle on the balancing test and weighing the positive and negatives. He stated the Board does not necessarily have to make a recommendation to Township Committee. You may choose to do it you may not choose to do it. He indicated we will have to get the majority of what the board wants within their report. He indicated he will have meld this together to have a unified board, which may be difficult.

Attorney Doyle stated he disagrees with the evenness of the Planners. He stated he believes Ms. Cuvillo mentioned the Ryan case and a hair of the Avalon and took up half a page he would be

surprised. Special Board Solicitor Marcolongo advised again Special Board Planner did provide more. Wiser Special Board Planner Wiser d will have a split vote and evidence and the mind of the board.

Board Member Rosenberg stated he agrees with Mr. Doyle concerning the legal opinion. May the record reflect with the exception of Board Member Rosenberg the remainder of the Board accept Special Board Planner Wiser report in its entirety.

Board Secretary Wilbert discussed the available times. After a brief discussion the Board agreed to Monday, July 11, 2016, 5:00 p.m.

Attorney Doyle stated he appreciates the arguments concerning certain documents. He would like to place these documents in a sealed envelope and saved with Mrs. Wilbert. Special Board Solicitor Marcolongo agreed.

Special Board Solicitor Marcolongo thanked everyone. He stated now it is the Board's time to talk and the board will place their findings on the record. He then advised the Board of what their responsibility will be at the next meeting. He noted he provided the first meeting a number of cases. He stated of the Board does not have copies he will supply more. He then advised to the Board what specific items are relevant items of inquiry and findings of fact. He also stated he is providing the last hearing of Strathmere and their findings of fact. He indicated he is providing as a template.

Attorney Doyle stated he does not expect to make a close, but at some dead line date, would like to present a letter of summary, least two (2) weeks before for the plus or minuses. Special Board Solicitor Marcolongo stated he held him summary to the end for Mr. Doyle.

Chairman Garth thanked Attorney Doyle and advised he is a good Attorney for his clients. Board Member Aponte stated he has wrote down the pluses and minuses and do not need anything. Attorney Doyle stated he may submit if it is read, it is read.

Motion Aponte/Eykyn to carry public hearing to Monday, July 11, 2016, 5:00 p.m., prevailing time.
VOTE 8 yes: Aponte, Carman, Eykyn, Garth, Kearns, Pfrommer, Rosenberg

SUMMARY MATTER(S):

SECTION I: Discussions of matters pertaining to the Board:

A: General public discussion: Motion Aponte /Rosenberg to open public portion

May the record reflect no one came forward

Motion Aponte/Rosenberg to close public portion

Motion Pfrommer/Eykyn to approval special planning board meeting minutes of October 27, 2015.
Vote 6 yes: Carman, Eykyn, Garth, Kearns, Pfrommer, Rosenberg . **1 Abstention:** Aponte

Motion Aponte/Rosenberg to adjourn at 9:25 P.M. VOTE 7 Yes: Aponte, Carman, Garth, Pfrommer, Rosenberg

Respectfully submitted by,
Theresa Wilbert, Secretary

