

**TOWNSHIP OF EGG HARBOR  
PLANNING BOARD**

**November 17, 2014**

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

**Roll Call Taken as Follow(s):**

Manuel E. Aponte, V-Chairperson, present  
Committeeman John Carman, present  
Charles Eykyn, present  
James Garth, Sr., Chairperson, present  
Frank Kearns, present

Robert Levy, another engage.  
Mayor James J. McCullough, Jr., \* See Below  
Peter Miller, Township Administrator, recused  
Paul Rosenberg, 2<sup>nd</sup> V-Chairperson, present  
John Welsh, Alt. II, excused

**\*May the record reflect:** Mayor James J. McCullough has recused himself from these hearings. He has sent Township Committeewoman, Laura Pfrommer in his place.

**PUBLIC HEARING(S):**

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

Chairman Garth advised he listened to the CD from the last meeting November 7, 2014 and reviewed the exhibits submitted.

Special Board Solicitor Marcolongo advised he is calling Township Administrator, Peter Miller to continue his presentation. Thereafter, will be the Egg Harbor Township Public Works Director, Al Simmerson. He indicated he intends to call Bill Danz, the Egg Harbor Township Fire Chief. However, Chief Danz is not an employee of the Township. He is completely volunteer and he did not want to waste his time if there was a chance the Board were not to reach him tonight.

Mr. Miller advised the next area he would discuss is the Municipal Golf Course. He stated during the hearing on March 31<sup>st</sup> two (2) residents from Seaview Harbor indicated they were denied access to play at the Golf Course. He indicated on June 2<sup>nd</sup>, 2014, Mr. Al Smith, Haddonfield, New Jersey, who owns a home at 108 Hospitality Drive, testified that in 2010 he went to the Golf Course to obtain a residency card. He was told he needed a copy of his tax bill or a utility bill to be issued a resident card.

Mr. Miller stated Mr. Smith advised he lived in Seaview Harbor and the Mayor was his neighbor. He stated Mr. Smith was still required to present proof and Mr. Smith went home got the proof and was

issued a resident card and he went out and played golf. Mr. Miller stated on July 21<sup>st</sup>, 2014, Mr. Berger, from Blue Bell, Pennsylvania who resides at 26 Sunset Boulevard testified in 2003 he was denied access to play McCullough's as a resident. Mr. Miller advised Mr. Berger did not say whether he had spoken to a supervisor or anyone else that day to resolve the issue. He indicated no other resident in Seaview Harbor provide any other testimony concerning the golf course.

Mr. Miller explained Emerald Links is not a municipal operated golf course. He indicated the golf course is a non-profit corporation and was formed for the building of a public golf course. He indicated, however, since the first day the decision was made that all residential property owners in Egg Harbor Township would pay the resident rate regardless if first, second or third home.

Mr. Miller stated if Mr. Berger had an issue in 2003 it should have been resolved in 2003. He indicated he is not sure if it had because since that time there is no record of Mr. Berger returning to play at the golf course. Mr. Smith was handled appropriately and he came back to provide proof. He indicated proof must be provided. He indicated this business is no different than any other that would require proof in order to obtain a discounted rate.

Mr. Miller entered onto the record Exhibit B49 Golfer Playing History for Al Smith, 108 Hospitality Drive. Mr. Miller stated Mr. Smith advised in 2010 he was told he had to show proof in order to obtain a residency card. He indicated Mr. Smith played the course for the first time in August 10, 2007, which was three (3) years before the date he had indicated he had a problem getting a resident card. Mr. Miller stated since then Mr. Smith has played eight (8) times, the last time he played was October 23, 2011, his resident card is still valid and the prices under "total" of exhibit B49 are resident rate.

Mr. Miller stated Mr. Smith was always charged a resident rate at the golf course not a non-resident rate. Mr. Miller stated Mr. Berger stated he was denied a resident rating in 2003. Mr. Miller presented an email from Tom Sullivan, General Manager of the Golf course concerning Mr. Berger. The email is dated October 28, 2014 and is referenced as Exhibit B50. Mr. Miller explained Mr. Sullivan search the data base a number of different ways using Mr. Berger's name and address but he could not find where Mr. Berger made a Tee Time to play golf at the course.

Mr. Miller stated while doing the research they found another individual Mr. Meehan, who owns a home in Seaview Harbor, which is a second home who also has a resident card. He indicated they have no record of anyone being denied to play because they are a second home owner.

Mr. Miller stated when the non-profit golf corporation was formed they borrowed money on their own but in order to finance the lender asked to Township to be the guarantor of the debt. He indicated as a result the Township required either the Township Auditor or the Township Administrator be an ex-officio member of the Board of Director's for the Municipal Golf Corporation so that if there were financial issues they would know about it before it became a guarantee situation.

Mr. Miller stated in 1998 he was appointed the ex-officio member of the Board and he was appointed Secretary/Treasurer of the Golf Corporation. He indicated it is a position he has held since 1998 and 2002, when the golf course opened. He indicated the Board made it clear that all residents regardless if they are 1<sup>st</sup>, 2<sup>nd</sup>, or 3<sup>rd</sup> homeowner in Egg Harbor Township would all pay the resident rate. He indicated there was no intention to treat anyone who lived in Egg Harbor Township or owned a home in Egg Harbor Township different.

Board Member Aponte stated he does not golf. He asked what the process is for someone to come in and how long has it been in place. Mr. Miller stated the Tee Book system changed in the winter of 2006/2007 and this is why data only goes back to 2007. He indicated when someone books a tee time on line you would provide name, address, select the time and how many golfers will be playing. He indicated when you call on the phone to reserve a tee time you would provide your name and who else is playing with you. He stated sometimes when you have a foursome all four people are paying separately instead of one. He indicated to capture the data in order to send emails to have people come back again they maintain a data base of all the people that play there. Mr. Miller stated there are times when people walk in to the course, pay the money and refuse to provide names.

Board Member Rosenberg asked how many active resident cards are there. Mr. Miller stated he does not know. Board Member Rosenberg asked how many houses in Egg Harbor Township. Mr. Miller stated there are between 13,000 – 14,000 residential units. He indicated they are not all homes some could be condominiums, apartments. Chairman Garth stated someone has a condominium in West Atlantic City, but lives in Philadelphia and the only address on their driver's license is Philadelphia. He asked is it normal for them to have to bring an electric bill or something similar into the golf course in order to get their resident proof. Mr. Miller stated yes. He indicated if your license does not match your property they ask for proof of residency such as a utility bill or tax bill

Board Member Eykyn asked if everyone shows their license or just the ones that want the discount. Mr. Miller stated if it is the first time playing as a resident they ask for proof. He indicated they would show their driver's license. He indicated if the address says 1 Hospitality Drive we know you are a resident and do not ask for a utility bill. Mr. Miller stated they have a list of the different zip codes at the counter. Mr. Miller stated it could have been a clerk working that day and did not recognize the address and said sorry you are not a resident. He advised if the person went to the supervisor or the general manager that day it would have been resolved.

Board Member Eykyn asked if he has to show his license if wanted to go there and golf. Mr. Miller stated no but if he want to pay the "rack rate" all he would have to do is book his time and pay in either a credit card or cash. He indicated it is only for those who what to pay a discounted rate that have to show proof of residency.

Board Member Rosenberg asked if the resident card count is between 6,000 to 7,000. Mr. Miller advised it is nowhere near this number. He advised the resident number is in the hundreds. Board Member Rosenberg advised he was mathematically trying to determine between Seaview Harbor and the remaining portion of the Township to determine if the golf course underused, overused, or about the same for this particular neighborhood compared to the rest of the Township.

Mr. Miller stated the last full year they did about 28,000 rounds of golf and about 50% of those rounds of golf were summer people from Ocean City, Longport, Margate or campgrounds and they come to the golf course in May, June, July and play. He indicated the rest of the rounds are played by locals from Atlantic and Camden County. He indicated with 14,000 homes he would like to have 14,000 people playing but the greatest amount of players are from people out of town not locals.

Attorney Doyle stated it was indicated records were started in 2007 but comments were made about what possibly happened in 2003 with Mr. Berger. Mr. Miller stated he believes he indicated computer generated records. He advised the General Manager did a manual search from the day of opening and found nothing. Attorney Doyle asked why would they find him since he testified he left that day and did

not came back. Mr. Miller indicated his notes never said he left and never played. They say he asked for the resident rate and was denied. Attorney Doyle stated Mr. Miller had someone search records from 2002 – 2014 to find out if Mr. Berger ever showed up. Mr. Miller stated from 2007 – 2014 is simply you enter a name and the computer will search and it took about an hour to look through the manual records looking for Mr. Berger.

Attorney Doyle stated there is nothing that shows who was spoken to, who the employees were, and whether the conversation did not happen. Mr. Miller stated to go back to find someone to see if they recollection about a random conversation like that, no. He stated if Mr. Berger did not play golf there is no record of a conversation. Attorney Doyle stated with respect to Mr. Smith it appears the records show he lives in Longport with parentheses Egg Harbor. He asked where did they get the Longport from. Mr. Miller stated this is his mailing address. Attorney Doyle asked where would they have gotten the mailing address from. Mr. Miller stated since he has a resident card he produced a utility bill or tax bill as indicated in his testimony.

Attorney Doyle asked if the Golf Corporation send mailers to its resident members. Mr. Miller stated they send emails to everyone in the data base not just residents. Attorney Doyle asked if they send snail mail. Mr. Miller indicated not that he is aware of.

Attorney Doyle stated Mr. Miller serves because it was a requirement to have one (1) Township Official ex-officio. He asked whose requirement is this. Mr. Miller stated the Governing Body. Attorney Doyle asked if he is the only municipal official sitting on the Board or in office for the Golf Corporation. Mr. Miller stated the Mayor sits as a private citizen on the Board of Directors. Attorney Doyle asked that Mr. Miller differentiate how the Mayor is a private citizen and not the Mayor when he goes to the corporate meetings. Mr. Miller stated the Egg Harbor Township Golf Corporation was formed in 1998 as a 6320 Corporation under IRS Regulations. He stated James McCullough was a founding director/member of that non-profit corporation when they incorporated the papers.

Mr. Miller stated in the capacity that he sits on the Golf Corporation is no different than him sitting on the Board of Directors for the Red Cross or some other non-profit organization. Attorney Doyle asked if the Township guarantee debt for the Golf Corporation. Mr. Miller stated yes. Attorney Doyle asked when this was done. Mr. Miller stated 2000.

Attorney Doyle asked if the Golf Corporation is self-sustained. Mr. Miller stated the Golf Corporation has not defaulted on any of their payments. Board Member Aponte stated he does not know how all this testimony results back to the residents of Seaview Harbor. He asked how a resident going to the Golf Course and not getting a discount has to do with Local Finance Board and municipal debt structure. Attorney Doyle stated if the debt structure is sustained by the Township as an integral part of this petition and the possible consequences of it granting or denying to both the municipality and the citizenry he thinks municipal finance is very much a question.

Board Member Aponte stated is this not part and parcel of what the petitioners finance expert discussed concerning the rate. He indicated there is a line item on the budget that causes a tax rate to go up or down due to Seaview Harbor succeeding it's all baked in. He indicated money is fungible it is all in there. Board Member Aponte stated the questions on both side should be punted to where we are going and not more of a shotgun approach and he has seen this a couple times.

Attorney Doyle stated if Mr. Miller had employees spend at least an hour on two (2) people he does not understand why he cannot take five (5) minutes on questions of testimony he gave. Special Board Solicitor Marcolongo stated it is at the Boards discretion if they feel they have all the information they need on a particular topic.

Mr. Miller stated he was charged with finding a way to make the golf course happen. He indicated he reached out to the New Jersey Economic Development Commission and went to their offices in Trenton. He indicated they told him about the 6320 Corporation which is a regulation from 1963 IRS rules that says a non-profit can be formed for a single public purpose. He indicated they gave him the example of someone in Pennsauken within Camden County wanting to build some ice rinks.

Mr. Miller stated he brought this information back and discussed with the bond counsel. He indicated the bond counsel reported back to Governing Body and advised that if a group of citizens came forwarded and formed a 6320 corporation they can borrow money and form their own corporation and they could enter into a lease agreement. He indicated with this information nine (9) residents of the community, the Mayor being one of them, formed a non-profit corporation, they registered with the IRS and the State of New Jersey as a non-profit corporation for the sole purpose of building a public golf course at no cost to the tax payers.

Attorney Doyle asked who charged him with this responsibility. Mr. Miller stated he does not think he said he was charged with the responsibility. Attorney Doyle then asked the transcriber to read back what was discussed. May the record reflect: the Certified Court Transcriber stated the following: "I was charged with finding a way to make it happen".

Attorney Doyle asked who charged him with finding a way to make it happen. Mr. Miller stated the Governing Body directed him to investigate the 6320 corporation and find out if it could happen. He stated he gathered the facts brought it back and reported to them that yes according to the Economic Development Authority in the State of New Jersey they have these groups that have done this before, this is the law. They had me pass along on to the bond counsel to research and find it is appropriate.

Special Board Solicitor Marcolongo stated the Board is questioning how relevant this information is to their line of thinking of how the deannexation will affect the social and economic interest of the citizens of Seaview Harbor and significantly impact the remaining residents of Egg Harbor Township. Attorney Doyle stated he will be brief. He asked if the Golf Corporation self-sustained, do they pay their debt. Mr. Miller advised in the past few years it has been subsidized by the Township. Attorney Doyle asked how much per year. Mr. Miller stated it has varied over the last three (3) years from between \$150,000.00 to \$600,000.00.

Attorney Doyle asked when the golf course was proposed how many rounds of golf were projected to make it sufficient. Mr. Miller stated it was around 30,000. Attorney Doyle asked how many rounds of golf were played this year. Mr. Miller stated around 29,000. He stated in 2009 it slipped below 30,000 and in 2010, 2011 it slipped further. He indicated in 2012, 2013, and 2014 it has been going back up in the opposite direction. Attorney Doyle asked if this comes out of the 2 cent open space fund. Mr. Miller stated yes. Attorney Doyle asked when this was created. Mr. Miller advised in 2001. Attorney Doyle asked if it was with the golf course in mind. Mr. Miller stated no. He advised it was created to preserve open space and acquire open space.

Attorney Doyle stated Mr. Miller mentioned individual members. He asked if there are corporate members of the golf club. Mr. Miller stated no. Attorney Doyle asked Mr. Miller how he went about obtaining the information to find out who were members in Seaview Harbor to produce the information that Mr. Smith and Mr. Meehan. Mr. Miller stated the general manager did a search for all members living on Hospitality Drive, Sunset Boulevard and Seaview Drive.

Special Board Planner Wisner asked who appoints the golf course officers. Mr. Miller stated they are appointed by themselves. He stated they are not paid and they have bylaws as to who and who does not get appointed. Special Board Planner Wisner asked if it a rolling reappointment schedule. Mr. Miller stated there is usually two (2) or three (3) up yearly. Special Board Planner Wisner asked to confirm that the governing body does not appoint. Mr. Miller stated this is correct. He advised Governing Body has no jurisdiction or authority over that corporation.

Mr. Miller stated on April 21, 2014, Mr. Steven Klein provided testimony concerning a May 24, 2003, EMS call for his mother. He indicated this information can be found on pages 32 and 33 of the April 21, 2014 Minutes. Mr. Miller stated he testified his mother had congestive heart failure and he explained what happened that day. Mr. Miller stated he testified that throughout the day his mother was upstairs in pain and the family was concerned after several hours so the family decided she was not getting any better and to take her to the hospital and called 911 from a land line and said they had an emergency, they had to get his mother to the hospital. She was having abdominal pain and congestive heart failure.

Mr. Miller indicated he said the dispatcher asked where they were and he was told by the dispatcher there was no such address and the dispatcher did not know where Seaview Harbor was. Mr. Klein advised his mother had congestive heart failure and at any time something could happen. He advised fifteen minutes went by and nothing happened. He stated they called 911 again and the dispatcher advised they could not find his address. He stated it is now forty or fifty minutes later and his family could not wait any longer so they took his mother to the hospital and they go there about 6:00 p.m. to 7:00 p.m. that evening. Mr. Miller did state he paraphrased this information, which he took out of the minutes from the meeting he testified at.

Mr. Miller presented the dispatch log call Exhibit B51: from May 24, 2003, for 49 Sunset Boulevard containing four (4) sheets. Mr. Miller advised during Mr. Klein's testimony he referred to his brother, Ray. He indicated if you look at Page 2 of exhibit B51 an Irving Klein called from a land line 822-2780. Mr. Miller advised this was Saturday, May 23, 2003, Memorial Day weekend. He then asked the Board to look at Page 1 of Exhibit B51, he advised it says no chest pain or trouble breathing at this time and was received at 16:17 p.m., the next line shows at 16:18 p.m., the call was stacked, which means 38 seconds from the time the call came in it was stacked because the ambulance was not ready to go yet.

Mr. Miller advised if you go to Page 3 of Exhibit B51 that was the comments from the dispatcher when they receive the call. He indicated at 16:17 p.m., the call logged in and they put a note no chest pain or trouble breathing. He indicated at 16:22 p.m., R1500 is the director of ambulance services and at that time both our ambulances on duty were on calls. He indicated he assumes she thought after 5 minutes one would clear she advised dispatch at 16:22 p.m. they won't clear and contact Somers Point. Mr. Miller stated at 16:38 Somers Point advises they cannot get a rig out go to Northfield. He indicated Northfield is dispatched and at 16:45 p.m. or 4:45 p.m., District 6, which is Northfield, stated they are responding.

Mr. Miller stated at 16:48 p.m. the resident called back and said they were going by personal vehicle. He indicated 31 minutes after the original call was made Mr. Klein called back and cancelled the call. Mr. Miller stated in the upper right hand corner the call taker is Mary Mason and at that time she worked for the Township at least 14 to 15 years. She knew where Seaview Harbor was. Mr. Miller added at the dispatch center when the call comes in on one screen it pops up with the address, the phone number and whose name is on the account. He indicated on another screen a map pops up with a pin in it which tells where you are. He indicated clearly the dispatcher knew where 49 Sunset Boulevard was by just looking at the map. Mr. Miller advised the story about the dispatcher not knowing was not completely accurate.

Mr. Miller stated if the call had come in as congestive heart failure a paramedic would have been dispatched from Shore Memorial Hospital directly to the house. He indicated when someone has that type of condition the ambulance and the paramedics are automatically dispatched at the same time. He indicated the paramedic was not dispatched at the same time because it was a transport call. He indicated there was no chest pain or trouble breathing at the time. He indicated there was no panic from the person calling in and they did not report any trauma at that time.

Mr. Miller stated he is somewhat surprised with his testimony. He indicated at 16:48 p.m., 31 minutes after the call was done they cancelled the call and decided to take their mother to the hospital. He indicated according to Mr. Klein's testimony they did not get their mother to the hospital until somewhere around 6:00 p.m., or 7:00 p.m. He stated the call was cancelled around 4:45 p.m. It was another hour or hour in half before they get to the hospital.

Mr. Miller stated for us not knowing where Seaview Harbor is or Mr. Klein's residence he asked to mark **Exhibit B52**: a log (one (1) sheet) reports from 1993 to 2003 of Egg Harbor Township's responses to 49 Sunset Boulevard. Mr. Miller stated this log shows the calls for service concerning 49 Sunset Boulevard going back ten (10) years prior to the call that Mr. Klein testified. Mr. Miller indicated this exhibit shows various calls for service concerning a missing person, property check, fire alarm, burglary alarm(s) and EMS calls.

Mr. Miller stated he went back as far as he could with the information because the representation was that we did not know where they he was and that Sunset Boulevard is in Egg Harbor Township. He indicated this information shows the Township if familiar with this property and they have been there several times before and the call from that day was not congestive heart failure, it was called in as not being an emergency. He indicated they did have people responding and after 31 minutes of the initial call the family cancelled the call and transported Mother on their own. Mr. Miller stated between the testimony given and the records provided they do not match up very well.

Board Member Rosenberg asked if Mr. Klein advised chest pains instead of stomach pains would there have been a different level of importance. He asked if this is more not recall exactly what happened eleven (11) years ago, or did someone say the wrong thing, or is the dispatcher at fault, or did we fail to show up. Mr. Miller stated the purpose of providing this information is to show the testimony and the record do not match up. Board Member Rosenberg asked if the caller stated my mother is having chest pain and she is elderly would the dispatcher done something differently. Mr. Miller depending upon the description of the chest pain yes. He indicated all calls go to the Township first if it is a non-emergent situation. He indicated the dispatcher heard it was a non-emergent call, stacked it, and went down mutual aid chain.

Board Member Rosenberg stated in the context of these hearings he is trying to figure out if this is just simply they said the wrong thing or a systemic failure that this section of town is not being serviced. He stated he would be upset too. If he had called and did not receive an ambulance for 30 minutes. He indicated emergency is personal. He stated 30 minutes could feel like three (3) days. He indicated he is trying to figure out if the resident are being serviced and they do not feel it or if they are not being serviced.

Mr. Miller stated the logged in comments of the dispatcher state patient has stomach pains, no chest pains or trouble breathing. He indicated it was characterized non-emergent response they need a ride to hospital. He further noted that the Township's Ambulance Squad, Somers Point and Northfield were volunteer squads at the time. Mr. Miller stated Mr. Klein's recollection could be poor. He indicated Mr. Klein did not provide any documentation or exhibits for the record. Mr. Miller advised his purpose as a fact witness is to show the facts of what took place. Board Member Rosenberg stated he has to make it clear that he does not doubt Mr. Klein's recollection. He indicated that is why the Board must weigh the evidence.

Board Member Aponte stated he had asked if the Township ambulances have GPS. Mr. Miller indicated not at that time. Board Member Aponte stated it is impressive that back in 2003 the Township had this level of detail. He indicated from his notes the gentleman stated no one go back to him for an hour. Mr. Miller stated he had 40 to 50 minutes close to an hour. Board Member Aponte asked Mr. Miller what he can testify to since he is not E.M.S. Mr. Miller stated he can testify to the two (2) exhibits given are records from the Township show how the call was handled and what was reported to the Township as to the severity of the call. As well as, showing the historical record of the Township going to the property over a ten (10) year period of time.

Special Board Planner stated the normal course for a non-emergent call, if the Township Ambulance cannot respond, then the dispatcher goes down a list of mutual aid until someone was found to respond. However, in a life threatening situation they do this and a call Shore Memorial or Shore Medical for an emergency dispatch. Mr. Miller stated depending upon geographically where you are in the Township someone other than Shore Medical may respond. He indicated in an emergent situation the dispatcher will dispatch our ambulance and call the hospital. Board Member Kearns would he be correct in saying that sometimes the paramedic's may arrive at the location before the ambulance. Mr. Miller stated yes, and this happens many times in a lot of communities within Atlantic County.

Chairman Garth advised since the incident that occurred with Mrs. Klein the whole EMS/Emergency Medical System/Agencies have changed in Atlantic County for the good. Special Board Planner stated the Chairman is not suggesting this change was a result of this incident. Chairman Garth stated no, not as a result of this incident. It has changed to make things better. He stated this is for the medics not the individual ambulances. Board Member Aponte asked if this is something the Police Chief can testify to this. Chairman Garth stated more than likely.

Attorney Doyle asked based upon what Chairman Garth indicated did Mr. Miller agree that it is accurate. Mr. Miller stated he does not know. Attorney Doyle stated Mr. Miller testified what happens in 2003 is he familiar with what happens now. Mr. Miller stated the Township contacts the paramedic unit, he indicated he is not sure if it is a third party or the hospital that directly dispatches them.

Attorney Doyle stated Mr. Miller would not know what happened in 2003 other than wanting to verify that Mr. Klein was accurate or inaccurate. Mr. Miller stated he looked to confirm Mr. Klein's story.



Attorney Doyle stated this was done by obtaining B51 and B52. Mr. Miller stated yes, which he advised were obtained from the Police Chief. Attorney Doyle stated Mr. Miller mentioned Mary J. Mason, was the call taker. He asked whom she was employed by. Mr. Miller stated she was employed by Egg Harbor Township in 2003 and she was a dispatcher within the police department. Attorney Doyle stated the comments written on B51 were written by whom. Mr. Miller stated the dispatcher.

Attorney Doyle stated the comments that were written down at 4:17 p.m. on that day say CFS. He asked Mr. Miller what this means. Mr. Miller stated he does not know. Attorney Doyle then referred to the minutes, stating Mr. Klein's Mother was having abdominal pain, which is consistent with stomach pain. Mr. Miller stated yes. Attorney Doyle stated the call was received by Irving H. Klein, however, he understands Mr. Klein was dead at the time, could the Irving Klein be shown on the screen as the proper owner. Mr. Miller advised he was told they took the name of the person who made the call and he assumed Irving and Ray was the same person, it was a nickname.

Attorney Doyle asked Mr. Miller if he knows how the information of no chest pain or trouble breathing at this time came to be. Mr. Miller stated dispatcher Mason entered this information when she handled the call. He indicated this is the protocol and all the data is entered by her. Attorney Doyle asked if she told him this. Mr. Miller stated she no longer works for the Township. Attorney Doyle asked Mr. Miller if Exhibit B51 is suggesting that Mr. Klein testified inaccurately. Mr. Miller stated what he is representing is that his recollection from 11 years ago is not consistent with the report that exist with that call.

Attorney Doyle asked Mr. Miller with respect to Exhibit B52 if he had the Police Chief look up all the calls ever made for 49 Sunset Boulevard. Mr. Miller stated he asked the Chief to run all the calls from 2003 back to as far as he could go. Attorney Doyle this was to determine whether Mr. Klein's testimony that they were not sure where to find him was not likely accurate because they had been there nine (9) times before. Mr. Miller stated the record speaks for itself. Testimony was he was told we did not know where they were, we didn't know how to get there and we could not find him. He stated the purpose of these document is to show we know where you are and been there before. Not sure what he remembers from 2003 and the records and testimony do not match.

Attorney Doyle stated Mr. Miller as the Township Administrator has put the full resources of the Township to ensure everything that is said by the petitioners or in support of the petitioners is accurate. Mr. Miller stated no. He indicated he has not put the full resources of the Township. He indicated to generate the two (2) documents took no more than 3 to 4 minutes to print this information out. Special Board Solicitor Marcolongo stated he is not sure it is relevant to this Board as to whether it took a minute or an hour to do. He indicated the Board has expressed that they have to determine how deannexation will affect the social and economic impact upon the petitioners and how it will affect the remaining residents of Egg Harbor Township. He stated how long it took him to obtain certain information is irrelevant to their determination.

Attorney Doyle asked Mr. Miller if he has reviewed his notes, the minutes, and the submissions into evidence the same way as he has reviewed Mr. Klein's testimony. Mr. Miller stated he does not understand the question. He advised as a fact witness he looked at facts presented by the petitioners and checked their accuracy and he is presenting to the Board the documents he has found that seem to be different then the direct testimony under oath given by Attorney Doyle's witness. Attorney Doyle asked if Mr. Miller similarly looked at the facts presented by all of the witnesses to see whether, as far as, he could determine from the record they were factual, as was done with Mr. Klein.

Special Board Solicitor Marcolongo asked the relevance of this question. He stated any witness should not be afraid to have their facts questioned and placed up to a mirror. Attorney Doyle agreed, but this would also include Mr. Miller also. He stated he has a right to ask because if Mr. Miller looked at the facts and says Mr. Klein is wrong then he is duty bound to tell the Board his client was wrong. Attorney Doyle stated Mr. Miller cannot pick and choose.

Board Member Rosenberg stated he agrees with a portion of what Attorney Doyle is saying. He stated what he believes he is trying to do is establish the separation of facts that Mr. Miller is presenting and Mr. Miller's personal opinion. He stated he can only speak for himself and no one else but he has so far been able to separate. He indicated he has found a few occasions where Mr. Miller has editorialized and he has been able to dismiss. He advised Mr. Miller that editorializing is inappropriate and Attorney Doyle's criticism of the facts that might be presented are certainly valid, therefore, he suggested everyone calm down.

Board Member Aponte stated at the last meeting came to a conclusion anything that had to do with Seaveiw Harbor succession the petitioners would provide their minutes. He indicated he did not feel this was an unreasonable request. Attorney Doyle stated he does have them. Special Board Solicitor Marcolongo stated he has spoken to Attorney Doyle who represented he had taken certain minutes and would provide. He indicated Attorney Doyle did not represent that all of the minutes asked would be presented. He indicated that this would be a picking and choosing, unless for some reason there is five (5) years of minutes that are being presented. Attorney Doyle stated it is not as good as the Chairman's wife group who kept the minutes and can find them for the last 20 to 30 years. He stated this is what he has and he cannot give something that they do not have. He advised Mr. Kohler cannot find what he was not given. Attorney Doyle stated he has what he has and will present.

Attorney Doyle asked Mr. Miller he read what Mr. Klein said in the minutes and through his notes. Researched the matter to determine whether there were inaccuracies as you compare to what is in the minutes and in discoverable record. He asked if Mr. Miller in the same degree look at the rest of the minutes and where factual assertions were made, by witnesses, did he seek to research those facts to see if they were in truth facts. Mr. Miller stated this is his third night and he has been through 15 or 16 subjects that he researched and provided facts on. He indicated the due diligence that he had put into Mr. Klein he looked at other people that testified.

Mr. Miller indicated if it appeared to him the testimony could not be consistent with the practice of the Township providing services, in the instance of Mr. Klein he called the Police Chief, and advised on May 24, 2003 there was a call at 49 Sunset Boulevard, do you have any information on it. He indicated later that day he sends over the documents presented this evening. He advised he looked at the information, looked at the minutes and saw an inconsistency between the testimony and the record. He stated he needs to present this to the Board so they can judge and use in any fashion they choose.

Attorney Doyle asked if Mr. Miller similarly researched each of the 77 exhibits from the petitioners and that they were consistent with true facts or whether there was some inaccuracy about them to his one personal knowledge or something he could have found from the public record to show they were inaccurate. Mr. Miller he stated he reviewed the records for the purpose of submitting factual information, documents which may be different then what was testified to. So he has done what Attorney Doyle asked. He advised he has fact checked. He indicated the newspaper articles there is no fact checking to be done. He indicated the letters written from him to Mr. Henry were not of issue, the

DEP Letters from Mrs. Burns he did not check to see if the letters arrived or where they came from. He stated some information was taken at face value. He advised he did not call up the Fire Chief to see if he wrote the letter from June. He stated he focused on the testimony dealing with the Township failing to provide services.

Attorney Doyle stated he would assume if something submitted into evidence that he knew from his own knowledge that it was inaccurate he would bring this to the Board's attention. Mr. Miller he stated not necessarily. He stated he does not want to be here more days than he has been here so he is not going to be knit picky on everything that may not be 100% accurate. He stated he is trying to focus on matters where there is a clear record which is different than to what was testified to.

Mr. Miller stated on June 2<sup>nd</sup>, Mr. Seivard testified to four (4) issues, schools, taxes on his house, obtaining a gun permit and a permit for his deck. Mr. Miller stated he will not discuss the school issue. He indicated that is a personal choice and there you send them to school is your own business. Mr. Miller stated in the minutes of June 2<sup>nd</sup> Mr. Seivard was asked what his taxes were and he replied his tax rate was alright and in 2001 when he purchased home they were \$3,800.00. Mr. Miller presented a memorandum from the Tax Collector, Sharon Riley, dated October 27, 2014 with reference to the 2001 property tax billing for 4 Sunset Boulevard, this was marked Exhibit B53. He indicated this memo references what the taxes were in 2001. He indicated they were \$4,800.00 not \$3,800.00. He indicated it is 26% of the amount higher than what he testified to and he have intentionally mislead the Board.

Attorney Doyle stated he objects. He advised it is one thing to discuss inaccuracies it is another to characterize someone as misleading. Special Board Solicitor Marcolongo stated the objection is noted.

Mr. Miller stated Mr. Seivard had testified that he obtained a permit to enlarge his deck, again, listed in the June 2<sup>nd</sup> minutes. Mr. Miller advised testified that he received a permit on July 24, 2001 and relied upon it to construct his deck. He further testified he received a phone call from the Township stating we did not know they were in flood plain and you have to utilize sonic tubes. He advised the Board that fortunately his neighbor was watching and he was able to have the plans drawn up.

Mr. Miller advised he would like to pass out previously marked Exhibit S18. He indicated the testimony this provided was that S18 reflected him obtaining a permit on July 24<sup>th</sup> and he relied upon before the Township stopped him. Mr. Miller referred to Page 5 of S18 showing that it was not approved, it was marked incomplete, on July 24<sup>th</sup> by both the building inspector and the construction official. He was not issued a permit on July 24<sup>th</sup> he was actually denied on July 24<sup>th</sup>. Mr. Miller indicated after being told it was denied on July 24<sup>th</sup> he then provided for the Board Exhibit S19 (previously marked) from Grana Associates. He indicated after Mr. Seivard was denied on the 24<sup>th</sup> Grana Associates prepared a report dated July 31 discussing the sonic tubes he was denied for and this information was resubmitted to the Township on August 6<sup>th</sup>, 2001 and if you review the back of Exhibit S19 (previously marked) it was approved on August 9, 2001.

Mr. Miller stated Mrs. Burns testified on June 30, 2013 concerning her neighbor Mr. Smith having a negative impact upon herself and the adjacent property owners Mr. and Mrs. LaPorte due to poor workmanship and his long delay in constructing his bulkhead. Mr. Miller stated she indicated the Township did nothing to help her rectify this matter. Mr. Miller refer to Exhibits S24 through S34 (previously marked) to show them to the Board as he speaks.

Mr. Miller stated Exhibit S24 is picture of a custom built house for sale with a builders sign in front, S25 is picture of her neighbor's backhoe in her driveway and the balance of the pictures S26-S34 have to do with the bulkhead being installed not the construction of the house on the property. He indicated the reason why he asked the Board to review pictures was because her representation was complained to the Township and we did nothing for her. He indicated the matter with the bulkhead and the Township's lack of a timely response has to do with the responsible jurisdictional agencies.

Mr. Miller stated the agency with jurisdiction over the bulkhead is the NJDEP. Mr. Miller referred to the NJDEP permit with an effective date of February 24, 1998 and expiration date of February 24, 2003. He indicated the permit was to construct a single family dwelling, an inground pool and 55' ft of bulkhead, asking the permit to be marked as B55 (11 page packet from NJDEP).

Mr. Miller indicated the agency having jurisdiction over the work not being done rested with the NJDEP who issued permit. Mr. Miller stated in an exhibit containing 39 pages there was a letter dated October 9, 1998, to James Keeping from the NJDEP Compliance and Enforcement section in reference to 32 Seaview Drive's bulkhead being replaced. He indicated the letter raised several issues concerning the workmanship, that it was not being done and how she was being negatively impacted.

Mr. Miller advised she copied the Township. Mr. Miller presented a copy of the letter from the Township file. He indicated he only made a copy of the first page of the letter since there is already an exhibit. It has been marked B56, page 1, of October 9, 1998 letter to James Keeping. Mr. Miller stated the Township received their copy and is date stamped October 15, 1998, there is a sticky note on it from Construction Official Tom Leonardis dated October 15, 1998, stating on he had called Mrs. Burns and advised he and John would out to take a look at the work being done on her home. He stated this message was left on a message machine at 3:00 p.m. Mr. Miller stated he submits this exhibit to show that even though the complaint was not our jurisdiction the Township did respond, which she indicated a conversation did take place.

Mr. Miller stated again the complaint was the NJDEP's responsibility. He presented the Board from the NJDEP Enforcement Office their record concerning her complaint on this property. He indicated it is identified as file no. #0108-97-0025, case name: Smith, address: 32 Seaview Drive, Egg Harbor Township, New Jersey. Special Board Solicitor Marcolongo referenced this is an eight (8) page packet with cover sheet that states Clue Log Info and was marked Exhibit B57. Mr. Miller stated he highlighted pages within this document that is a summary concerning the bulkhead. He indicated this references there was a possible violation concerning the bulkhead and on 9/20/98 and on 9/22/98 a NJDEP inspection came to site and placed a business card in Mrs. Burn's mailbox so she may call for results of the inspection. He stated a subsequent inspection was done on 10/28/98, which reveled concern on how it was backfilled. He indicated a correction notice was given on 3/18/99 the NJDEP wrote it appears to be corrected on 8/21/00 they called Mrs. Burns concerning sidewalk being undermined because of the construction work being done next door on 8/23/00 they performed an inspection of the undermining and a note says was advised at the time of the site inspection that a civil matter may be the solution. He indicated on 8/24/00 they placed a message on Mrs. Burn's answering machine as a result of the 8/23/00 inspection.

Mr. Miller referred to another page on B57 advising the time line for the possible violations being reported, the site inspection, notice to Mrs. Burn's and the phone calls and recommendation from NJDEP referencing a possible civil matter may be the best solution. He indicated this document references the letter of October 9, 1998 there is internal note, this needs to be resolved and an

inspection must be done. He stated up until August of 2000. Mr. Miller stated for two (2) years Mrs. Burn's was interacting with the NJDEP which is the appropriate agency to deal with the bulkhead.

Mr. Miller stated the Township issued permit #1999-0726 for the foundation on June 14, 1999 at 32 Seaview Drive and on September 10, 1999 (same permit number) a permit was issued for the construction of the home this information was marked as Exhibit B58 (both permits). He indicated this information was submitted to show that Mrs. Burn's complaint from October, 1998 was before the Township had any jurisdiction and any work being done before the issuance of the Township Permits came under jurisdiction of the NJDEP permit.

Mr. Miller stated even the NJDEP report stated a possible remedy was a possible civil matter between the parties because of the negative impact upon personal property. He indicated Mrs. Burn's indicated both she and the LaPorte's were being impacted and she does believe the LaPorte's did institute legal action against Mr. Smith. Mr. Miller then presented an exhibit which is correspondence, notices, and subpoena from the LaPorte's against Construction Official Leonardis and Zoning Officer Chatigny in the matter LaPorte vs. Smith. This was marked Exhibit B59 and Mr. Miller stated this is a five (5) page. He referred the Board to the letter dated January 3, 2002 from Mr. and Mrs. LaPorte to Construction Official Leonardis. Mr. Miller read portions of this letter to the Board. Mr. Miller indicated from this letter it shows the Township worked with the property owners and Mr. and Mrs. LaPorte was thanked the Township for their assistance.

Mr. Miller stated Mrs. Burn's indicated in the summer, 2002 the property was being occupied without the benefit of a C.O. and the Township took no action concerning her complaint. Mr. Miller presented a notice of violation dated July 3, 2002, to Joseph Smith, 32 Seaview Drive this notice of violation is for occupying a property without the benefit of a Certificate of Occupancy, which was marked as B60.

Attorney Doyle state the last exhibit was presented as a response to Mrs. Burn's. He asked when she first complained about this. Mr. Miller stated there is no written record of her complaint. Attorney Doyle stated pursuant to the administrative code Mr. Miller is in charge of handling complaints. Mr. Miller stated certain ones. He advised if you have a complaint concerning construction code you may go directly to the Construction Official. Attorney Doyle stated there was an exhibit submitted with a note that a call was made the same day. Attorney Doyle asked when Mr. Miller first heard about it. Mr. Miller stated it was when Mrs. Burn's testified a few months ago. Attorney Doyle stated there is no record that was found showing when Mrs. Burn's complained. Mr. Miller stated no. We received a complaint on July 2<sup>nd</sup> and went down and inspected and then issued violation notice.

Attorney Doyle asked what Mr. Miller is reading from. He indicated it was not presented. Mr. Miller stated he is reading from B60. He advised the inspection was done on July 3<sup>rd</sup>, normally the call is registered and we go out the next day. Mr. Miller stated we do receive phone calls concerning these situations and we do not require they submit something in writing to us. Attorney Doyle do have a complaint form. Mr. Miller stated we have a property maintenance complaint form. Attorney Doyle asked when the notice was sent out was compliance gained. Mr. Miller stated yes, the Certificate of Occupancy was issued on August 26, 2002. This Certificate of Occupancy was marked as Exhibit B61 (32 Seaview Drive).

Attorney Doyle asked if the only thing Mr. Miller recalls Mrs. Burns testifying to is Mr. Smith's bulkhead and the certificate of occupancy. Mr. Miller stated he recalls the bulkhead and subsequent occupancy without a certificate of occupancy. Attorney Doyle asked what about the construction material being

stored on her property by someone else. Mr. Miller stated the bulkhead equipment was there and she showed her photographs. He indicated whether she advised they were on her property he does not recall. He indicated that would be a civil matter.

Attorney Doyle asked Mr. Miller if he does not suggest that under property maintenance code the Township does not have control if someone fails to maintain their bulkhead. Mr. Miller stated he has not provided any testimony of bulkheads and property maintenance. Mr. Miller stated property maintenance code does recognize. Attorney Doyle stated there have been complaints from residents concerning bulkheads. Mr. Miller stated yes, there was a gentleman who raised a complaint in early 2009 and he was told we do not have property maintenance code, however, we did. He indicated it went into effect in May, 2009.

Attorney Doyle advised this was Dr. Berger. He asked since Mr. Miller has not raised issue with Dr. Berger's testimony then what he said was not inaccurate or else it would have been discussed. Mr. Miller indicated he is not sure when in 2009 that Dr. Berger came in. He advised the ordinance may not have been in effect. Mr. Miller stated in the summer Mr. Kohler asked what we were doing about the complaint submitted by Dr. Berger concerning his neighbor's bulkhead. Mr. Miller stated he checked and there is no record of a complaint being made by Dr. Berger. Attorney Doyle asked if Mr. Miller is discussing the summer of 2009 or 2014. Mr. Miller advised the summer of 2014 and he advised he has not records from 2009 to check. Mr. Miller stated we maintain a complaint log and we have no requirement to keep it for any period of time.

Attorney Doyle asked Mr. Miller if he could find if fines imposed to Mr. Smith ever paid. Mr. Miller stated he asked and they could not find it. He indicated the payment would have been made in 2002 and we only have to keep financial records for five (5) years. They would have been shredded by now.

Attorney Doyle asked if a recent examination of bulkheads have occurred within the last two (2) months. Mr. Miller stated during the summer Mr. Kohler said something about bulkheads and spoke with the property maintenance inspector to see if anyone made a complaint and if they went out. He stated he was advised no one had made a complaint. Mr. Miller stated he does not physically go and inspect bulkheads. Attorney Doyle asked if he remembers seeing Mr. Lowery when he was out looking at properties in Seaview Harbor and taking pictures. Mr. Miller stated yes. Attorney Doyle asked if the inspection was related to a complaint. Mr. Miller stated it was related to his testimony here.

Mr. Miller stated he would like to discuss property maintenance. He indicated during the June 30, 2014 meeting Mrs. Burns presented S36 which was signed by several property owners with referenced to homes at 20–26 Seaview Drive. He indicated at the bottom of the page 2014 was written. He indicated no testimony was provided as to what was done with this exhibit. He indicated Mrs. Burns did discuss specifically 25, 29, and 31 Seaview Drive stating she mailed them in 2013.

Mr. Miller presented as Exhibit B62 property maintenance log from August – September, 2013 property maintenance complaints received. Mr. Miller stated on August 19, 2013 received complaint for 29 Seaview Drive. He indicated an inspection was done on 8/21/13 and violation notice was sent and when a second inspection was done on September 10, 2013 the matter was abated and the file closed out. He stated on 9/10/13 we went to look at 25 Seaview Drive, notice was sent the same date and on October 24, 2013, the matter was abated and closed out. Mr. Miller as to 31 Seaview Drive this property is in foreclosure so it did take a while to find the bank. He indicated we sent notice on 9/10/13, 10/24/13,

and on 10/29/13 a violation notice was sent because of failure to abate. He indicated that finally on January 16, 2014 the outstanding property maintenance complaint was resolved.

Mr. Miller stated the property maintenance complaint goes on log and we track them and is not maintained as an official record. Special Board Planner Wisner asked if there is a companion record that would have a copy of the complaint and a file jacket. He indicated something more particular. Mr. Miller stated this is all he received. Board Special Planner Wisner asked if he made a complaint and it was abated does he receive a call advising that it has been. Mr. Miller stated we do not identify whom made the complaint. He indicated we take the complaint, the inspector goes out, makes a determination if it is bona fide. He indicated letters are not written back and forth between the Township and the person who complains.

Attorney Doyle do not get in correspondence concerning that a matter was resolved. Mr. Miller stated they will be able to tell if it was abated. Attorney Doyle asked if any one advises the tax payer who complained. Mr. Miller stated if someone calls we will advise if we are pursuing if not abated. Attorney Doyle stated he is reviewing Chapter 611 of the Township Code concerning what the municipal administrator shall do. He then read into the record a section of this code. Attorney Doyle asked Mr. Miller if he is pro-active with respect to the complaints. Mr. Miller stated the Township has a Property Maintenance Inspector to enforce this provision. He indicated though the administrative ordinance gives the administration broad powers, but he cannot perform every task in the Township. He indicated the Township appoints people to do so.

Mr. Miller stated his next subject is sewer assessment. He advised the only mentioned of sewer assessment occurred on October 24, 2014. He indicated it was identified by their financial expert Mr. Ryan, who identified Ordinance 3 of 1992. Mr. Miller stated Mr. Ryan is correct the homeowners did pay for the process. Mr. Miller stated he would like to present as an exhibit a listing of projects that were done at that time. Mr. Miller stated this is a listing of sewer assessments by neighborhood in Egg Harbor Township identified by the ordinance number. Special Board Solicitor Marcolongo marked as Exhibit B63 sewer assessments.

Mr. Miller stated Seaview Harbor was done by ordinance in 1992 so was Anchorage Poynte. He indicated in 1991 there was an ordinance for Beaver Lakes and Delilah Oaks. He indicated in 1993 we did one for the Town Hall area. He indicated the Township did these to facilitate the installation of sanitary sewer. He indicated by doing the assessment the Township became the banker and the residents did not have to borrow money. The Township fronted all the cost and one the project was completed the residents had ten (10) years to pay-off assessment. He indicated Seaview Harbor was less than \$5,000.00 and had ten (10) years to pay off, but they were not treated any differently then anyone else.

Mr. Miller stated he has a summary which is four (4) sheets marked Exhibit B64 Seaview Harbor Sewer Service. Mr. Miller stated the petitioners had submitted an OPRA request for everything involving sewer assessments. Mr. Miller stated the process to have sewer in Seaview Harbor began in 1986 when Township Committeeman Dan Garshman, who was also a resident of Seaview Harbor had a special meeting between the MUA and Township Committee to raise the issue that his neighbors needed sewer in the neighborhood. Mr. Miller stated a month later Mayor McCullough and a number of residents within Seaview Harbor attended a meeting with the MUA to discuss sewer. In February 1987 the MUA approved to apply for a DEP application to go forward with sewer. He indicated a year later in January

1988 the Township was given a report on Seaview Harbor Sewer and was advised the DEP did a reversal and denied Seaview Harbor from being in the waste water management plan at that time.

Mr. Miller stated in July 1990 and the MUA received a CAFRA permit for Seaview Harbor and in 1991 there was a meeting with Ralph Clayton concerning the sewer. Mr. Miller stated 60% of residents had to have wanted sewer and in 1991 Joseph Stewart asked for the Marina to have sewer and brought to attention the cost. He indicated in January 1992 the Township is still trying to help Seaview Harbor sewer by addressing some of the conditions. He advised in the summer of 1993 they had sewer. He indicated this is an illustration of a problem being identified by residents and it took over six (6) years to fruition.

Attorney Doyle asked if outlining areas handled as special improvement projects to be paid by the benefit of the homeowners. Mr. Miller stated no. He indicated they are driven by developers extending the sewer line, not by neighborhoods. Attorney Doyle asked if the MUA has taken upon themselves to extend the lines themselves to areas that do not have. Mr. Miller stated not that he recalls. Attorney Doyle asked if there are areas of Township that were developed a while ago that are still on septic. Mr. Miller stated yes. Attorney Doyle asked if there are any areas that were converted from septic to sewer besides the one listed in B64. Mr. Miller state he does not recall.

Attorney Doyle asked when the MUA came into existence. Mr. Miller stated sometime between the late 19060's early 1970's. Attorney Doyle asked what was the \$30,000.00 administration fee that was charged. Mr. Miller stated he does not recall. Attorney Doyle asked that sewer could not be extended by the Seaview Harbor resident's themselves. He indicated they needed the MUA. Mr. Miller stated the MUA owns the sewer system. He indicated if the residents have their own money and they submitted plans to the MUA they would have review and decide. Attorney Doyle stated the MUA has their own Engineer, specifications and they are going to do it and in this case have the homeowners pay 70% or 80% of the cost. Mr. Miller stated he cannot confirm the percentages, but in these cases the residents in these areas paid the lion share to bring sewer to them.

Attorney Doyle referenced previously marked exhibit S70. He then read portions of this exhibit (article from press of Atlantic City) onto the record. He asked Mr. Miller if what was read into the record what he said. Mr. Miller stated he did say what was just referenced but not connected in the way the writer connected the paragraphs. Attorney Doyle stated it is accurate that the Township installed the sewer but the Seaview Harbor residents paid for it. Mr. Miller stated they did pay for it. Attorney Doyle asked if all the people paid the money they owed and the bond was paid off. Mr. Miller stated yes.

Attorney Doyle asked if the Bonds were paid off in 2007 at some point did not the Township issue new bonds and in part give a security for them. Mr. Miller stated the Township issued bond anticipation notes for each project and at some point when they were completed and we financed them for a term of ten (10) years which corresponds with the time period in which they pay for the bonds. Attorney Doyle stated these bonds were paid off. Mr. Miller stated yes. Attorney Doyle asked if these bonds were re-cast. He asked if money was drawn because the bonding after 2007. Mr. Miller stated no and the bonds were retired in 2007.

Attorney Doyle began reading sections of exhibit S70 on the record. He then asked Mr. Miller that Longport would not have to pay for the infrastructure and bonds that were just discussed because as Mr. Miller indicated they were retired. Mr. Miller stated this is correct. Attorney Doyle asked where does the 4 or 5 million dollar estimate come from referenced in the news article. Mr. Miller stated



based upon the total amount of debt issued by the School and the Township and you take the percentage of the ratable base for Seaview Harbor and multiply that into that number it comes out to 4 or 5 million. Attorney Doyle asked how much is the Township debt. Mr. Miller stated the school district is over 100 million and the Township is around 20 million for the Township. Attorney Doyle stated the last time he saw the numbers the Township was at 36 million and the Township was at 99 million.

Mr. Miller stated you take 135 million and what your expert testified that Seaview Harbor is 2 ½ % of the ratable base and you have a number around 4 million dollars. Attorney Doyle stated it is 2.4 million and how did you conclude that is way it is considered. Mr. Miller stated he read the statute concerning succession and the receiving community would be responsible for paying a proportionate amount of outstanding debt at the time of acceptance. He indicated he went to the audit and took the two (2) numbers and took the amount the number of what the assessor gave him for ratable base did the math and came up with a number of about 4 million dollars.

Attorney Doyle stated the statute speaks of a proper proportion. He indicated it does not make reference to what "proper" means but can understand how Mr. Miller interpreted. Attorney Doyle asked if the Township pays off bonds all at once. Mr. Miller stated no. Attorney Doyle stated there will be bonds retired in the next few years and some in the 20's and even in the 30's. Mr. Miller stated he is not out that far (30's) with bonds. Attorney Doyle stated the statute discusses also a six (6) person committee needs to be appointed and they come to a decision. Mr. Miller stated yes, and they have a report that will outline a payment schedule. Attorney Doyle stated this committee will be made up of individuals, three (3) from each town. Mr. Miller stated yes.

Attorney Doyle stated the statute also speaks of the timing of the payments, as well as, there amount. Township Administrator stated he did not indicate it would be a lump sum payment, due upon leaving. Attorney Doyle asked if this information was left out of the article. Mr. Miller stated there was some information left out.

Attorney Doyle asked if Mr. Miller had ever mentioned this amount before. Mr. Miller stated one other time and when he visited the Longport Commissioner's. He indicated he had advised them they may be responsible for 3 to 4 million dollars. Attorney Doyle asked if Mr. Miller explained it would not have to be paid at once but over time. Mr. Miller stated they did not entertain him for details. He advised he had three (3) minutes. He indicated they did ask two (2) or three (3) questions and then thanked him for coming.

Mr. Miller stated he would like to discuss mutual aid. He indicated mutual aid is the back bone of municipal government. He indicated with volunteer fire companies and ambulance squad's municipalities sometimes cannot provide a timely response so this is the basis for it. He indicated long before there was shared services in New Jersey EMT's, firefighter's and police all had a sense of mutual aid and have done this out of sense of commitment to protect the public and provide for the safety of the public.

Mr. Miller stated he has worked in four (4) counties within New Jersey, Burlington, Bergan, Warren, and Atlantic, as well as, having lived in Camden. He stated every one of these counties relied upon mutual aid as well as the entire State depending upon mutual aid. He indicated Egg Harbor Township does appreciate what Longport does for them as part of the mutual aid. He indicated in recognition of this a few years ago the Township purchased dive suits for them and donated them. He indicated a few years

before that the Township purchased some equipment for them including a jaw's of life that were donated to them. He stated this was to say thank you and we appreciate what you do for us.

Mr. Miller stated during his tenor no Mayor, Commissioner, Police Chief or Fire Chief from Longport has ever said the mutual aid response was disproportionate. He indicated they never said anything about mutual aid one way or the other. He stated to the best of his knowledge the mutual aid calls from Longport to Seaview Harbor for Police and Fire are in the single digits on an annual basis.

Mr. Miller stated a few years ago Mayor Russo found burglar in his home. He indicated the Longport Police Department reached out to Egg Harbor Township to assist in the apprehension of that person and Egg Harbor Township police made the arrest in Seaview Harbor. He indicated he believes one of the residents that previously spoke indicated they found the person hiding in their back yard when they made the arrest.

Mr. Miller stated mutual aid agreements are informal agreements among public safety agencies. He then asked if Ordinance 44 of 1990 be marked as Exhibit B65. Mr. Miller stated this ordinance establishes a mutual aid agreement with Egg Harbor Township and other Atlantic County municipalities for police aid in times of emergencies. Mr. Miller indicated the Atlantic County Office of Emergency Management took it upon themselves to create a document to get all the town's to actually sign a formal agreement for these type of services. He advised in 2013 the Township adopted a resolution to authorize the Mayor to execute such an agreement. He indicated this is Resolution 393 of 2013 a resolution authorizing membership in the Atlantic County Mutual Aid and Assistance Agreement with participating units, which was dated December 13, 2013. Special Board Solicitor Marcolongo marked as B66 Resolution 393 of 2013.

Mr. Miller stated that mutual aid has historically been informal agreements but in the past year we have gotten this reduced in writing and it is for municipal police, emergency medical service and/or fire departments, volunteer fire companies, EMS organizations, and fire districts throughout Atlantic County. He indicated we now do have a formalized mutual aid agreement in Atlantic County where one previously did not exist.

Mr. Miller stated there has been some discussion concerning dispatching services relative to people calling in Egg Harbor Township from Seaview Harbor. Mr. Miller stated any landline in Egg Harbor Township regardless of what neighborhood you live in will come to the Egg Harbor Township police department. He advised if it is a cell phone call it will bounce off certain towers and end up at the nearest 9-1-1 and that dispatcher will have to ask for the address and transfer the call to the municipality where it exist. Mr. Miller stated for dispatching to make sure all those services are provided in a timely fashion the County created an overflow chart. Mr. Miller advised he has an exhibit of the Overflow Chart for the County of Atlantic dated January, 2010, which was marked as Exhibit B67. He indicated what this chart reflects is that Egg Harbor Township without question automatically dispatches for Absecon, Hamilton, Longport and Somers Point in the event their system ever goes down. He indicated there is no calling us and asking if we will do it, it is built into the system that we provide their response.

Mr. Miller stated we are also the second back-up for Hammonton and Pleasantville and third for Margate and Ventnor. He indicated there have been incidences where we have serviced Margate and Ventnor. He indicated there has been some confusion with dispatching as to where you are. He indicated Egg Harbor Township dispatches for Egg Harbor Township, Northfield and Linwood. He

indicated when someone calls the map pop's up and tells us where you are at and the cross streets. He indicated the Township is able to dispatch in any town in Atlantic County and in some snow events and the derecho we were dispatching for multiple towns because their systems crashed.

Mr. Miller stated to illustrate how this works he would like marked as an exhibit a memorandum from Ray Davis to the Chief of Police dated March 7, 2014 with reference to Longport's 9-1-1, Exhibit was marked B68. Mr. Miller stated this is an email from the Township Communications Supervisor to his staff saying effective that day the Longport 9-1-1 system will be out of service through March 10, 2014 and we are responsible for dispatching any calls for the next three (3) days originating from Longport. He indicated Longport did not ask us to do this we automatically dispatched for three (3) days and we had no confusion finding streets in Longport because the map comes up and tells us where it is.

Mr. Miller stated mutual aid is necessary for municipalities to survive in New Jersey. He indicated there are systems as to how they work seamlessly and he has not received any calls that there is a disproportionate number of mutual aid calls they handle for us and there is an imbalance and we need to correct it somehow.

Attorney Doyle stated this is a significant topic that he will not try to attack this late at night. He stated it is obviously on all our minds and most particularly the people that have expressed their concerns. He stated in justice to them would like to think on it. Special Board Planner Wiser stated Mr. Miller referenced a number that he missed. He asked the number of mutual aid calls from Longport to Egg Harbor Township. Mr. Miller stated the number of mutual aid calls we receive whether it is fire or police is annually less than ten (10) a year. Attorney Doyle asked whom does that understanding come from. Mr. Miller stated from the Egg Harbor Township police department. Mr. Miller stated there are instances when Longport police have responded without being dispatched by us. He indicated they monitor our frequency and respond to calls because it is slow in Longport at times and they want something to do. He indicated you may say they are there more often, but record is when we request Longport to respond.

**Motion Aponte/Rosenberg to carry public hearing to Monday, December 15, 2014, 5:00 p.m., prevailing time. Vote:** Aponte, Carman, Eykyn, Kearns, Pfrommer, Rosenberg, Garth

**MEMORIALIZATION OF RESOLUTION(S):**

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| <b>1. <u>SPPF 18-13</u><br/><u>Primax Properties – “Advance Auto”</u></b> | <b>Preliminary/Final Major Site Plan<br/>1611/16<br/>6011 Black Horse Pike</b> |
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**Motion Carman/Rosenberg to memorialize amended resolution granting requested checklist waiver(s), design waiver(s), variance relief and conditional preliminary and final major site plan approval. Vote 5 Yes:** Carman, Eykyn, Kearns, Rosenberg, Garth **2 Abstentions:** Aponte, Pfrommer

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| <b>2. <u>SD 03-14 &amp; SPPF 18-07 (Amended II)</u><br/><u>BrySCO Enterprises, LLC – “Matt Blatt”</u></b> | <b>Minor Subdivision<br/>Amended Prel./Final Major Site Plan<br/>1703/38 &amp; 43<br/>6201 Black Horse Pike</b> |
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**Motion Carman/Rosenberg to memorialize resolution granting requested checklist waivers (Minor Subdivision and Major Site Plan), Design Waivers, variance relief, conditional minor subdivision, and**

**amended preliminary and final major site plan approval (phases I, II and III). Vote 5 Yes:** Carman, Eykyn, Kearns, Rosenberg, Garth **2 Abstentions:** Aponte, Pfrommer

**SUMMARY MATTER(S):**

**SECTION I:**

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

**Egg Harbor Township Ordinance No. 29 of 2014 an Ordinance to Amend the Code of the Township of Egg Harbor, Chapter 94 thereof, entitled Design, Performance, and Improvement Standards.**

- **May the record reflect:** Township Administrator, Peter Miller has joined the Board for the remaining portion of the meeting.

Township Administrator Miller stated this ordinance is our payment in lieu of recreation fee. The Planning Board established and the Pinelands Commission approved the collection of an in lieu of fee rather than the construction of a tot lot's in the Township. He indicated this in lieu of fee is placed in the recreation fund to repair our existing parks or to acquire land for parks.

Township Administrator Miller stated every couple years the Planner goes through a formula, which is in the ordinance, to determine what this number is. He indicated this has been done and the number is \$6,050.00. He stated this is consistent with this section of the code and the Pinelands Commission established the Township to do periodic reviews of the number.

**Motion Aponte/Kearns to recommend Ordinance No. 29 of 2014 to Township Committee for review and approval finding it meets the requirements and is consistent with the Master Plan. Vote 8:** Aponte, Carman, Eykyn, Kearns, Miller, Pfrommer, Rosenberg, Garth

**Motion Aponte/Rosenberg to approve June 30, 2014 Special Planning Board Meeting Minutes and July 21, 2014 Regular Planning Board Meeting Minutes. Vote 7 Yes:** Aponte, Carman, Eykyn, Kearns, Rosenberg, Pfrommer, Garth

**SECTION II:**

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

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

**Motion Kearns/Rosenberg to close public portion**

**Motion Miller/Kearns to adjourn at 8:30 P.M. Vote 8 Yes:** Aponte, Carman, Eykyn, Kearns, Miller, Pfrommer, Rosenberg, Garth

Respectfully submitted by,

Theresa Wilbert, Secretary

