

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

**October 27, 2015**

**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, arr. @ 5:23 p.m

Frank Kearns, III

Dennis Kleiner, Alt. #1, excused

Robert Levy, another engage.

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

Peter Miller, Township Administrator, recused

Committeewoman, Laura Pfrommer, present

Daniel Pittaro, Alt. #II, excused

Paul Rosenberg, 2<sup>nd</sup> V-Chairperson, present

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

**CONTINUATION OF PUBLIC HEARING(S):**

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

Special Board Solicitor Marcolongo stated an error was found in the Financial Impact Report provided by Mr. Leon Costello and was marked B115. The Board had asked Mr. Costello to correct the error, supply copies and come back this evening to discuss. Special Board Solicitor Marcolongo advised this has been done and is marking this corrected copy as Exhibit B116. Special Board Solicitor Marcolongo stated Mr. Costello was cross examined previously by Attorney Doyle for items separate and apart from the report. He indicated Mr. Costello is present to answer any questions the Board may have concerning this report and of course further cross examination from Attorney Doyle.

Special Board Solicitor Marcolongo asked Mr. Costello to come forward and advised he is still under oath.

Mr. Costello advised this is the same report he presented previously, but the error has been corrected. He explained to the Board he initially prepared his report in 2014 with 2014 data and to verify the testimony provided by the petitioners side. He advised it has been a year since then so he changed his report with 2015 data and he changed the value of Seaview Harbor in every place but one spot. He explained this spot had the 2014 value which was 3 million plus higher than 2015. He indicate this error

ran through the other numbers and distorted what the results were. Mr. Costello further noted the pages numbers have also been corrected.

Mr. Costello then went through the various pages of his report (B116) advising Page #1 outlines the tax rates, tax levies, etc... Page #2 provides the conclusion of what the impact will be with \$95,385,300 removed from the Township itself. Mr. Costello stated as noted within the conclusions a home valued at \$208,100.00 will be \$122.78. He indicated this number reflects only the Township and the Schools. He advised Page #3 shows what 95 million dollar represents with respect to taxes further noting it would mean a 5.9 cent increase to the remaining tax payers in Egg Harbor Township. Mr. Costello advised at the end of Page #3 it shows what the Seaview Harbor property at \$750,000.00 in Egg Harbor Township would be \$22,222.50 and in Longport after the value was added to its tax base it would be \$6,660.00 or a reduction of \$15,562.50.

Mr. Costello stated Page #4 is the data from the County Board of Taxation on the tax levy which is also supported by Page #10 where the data actually comes from which shows the net valuation taxable, all the levies, all the tax rates, the County equalization and the ratio's and calculations. Mr. Costello stated Page #5 is the exact same information as Page #4, but for Longport. He indicated Page #6 shows the tax levies with Seaview Harbor removed. He indicated also on this page he left the County rate at 3.02222. He advised this would be rounded up, probably, one more digit but in normal case the Board of Taxation would put all of this on the County rate not the municipal or school. He stated that is why he left these not rounded. So the overall bill could go to 3.023 but to assume would not be responsible.

Mr. Costello advised also on Page #6 it shows when the 95 million is removed the \$122.78 to the right hand corner at the bottom of the page. Mr. Costello stated Page #7 is Longport showing the 95 million added to what their base use to be and the decrease they would see because they have more ratables added to their tax base. Mr. Costello stated on Page #8 shows the trend of net valuations. He indicated this shows you are in an up and down pattern since 2009. He advised two (2) years of an increase in value and three (3) years in decreases and the revaluation year cannot be determine. He advised when you go from a complete revaluation going from 2.5 billion to 4 billion scrambles what the real impact would be for that particular year.

Mr. Costello stated Page #9 is a listing of what the County tax levy for Egg Harbor Township in 2009 and then again in 2015, as well as, the school taxes in 2009 and 2015, and the local purpose tax and then a total of all tax levies in 2009 and 2015 showing an average of 4.1% per year in the average tax levies that the residents of Egg Harbor Township pay. He indicated Pages 10-22 are back up sheets showing where the data comes from. Again, noting Page #10 is the tax rate for Egg Harbor Township and tax levies. Page #11 is Longport's data and Page #12-22 are the County Abstract of Ratables. Mr. Costello stated Page #23 is a summary prepared by the Assessor showing the values of the Township and of Seaview Harbor from 2011 to 2015. Noting that you can see from 2012 to 2013 the giant increase in the value is due to the revaluation not due to assessments and properties coming on.

Mr. Costello stated Pages #24 and #25 are facts and assumptions and the information is repeated from other places. He indicated the only thing different on these pages is the school tax levy in both communities probably did not change. He advised the impact of the schools districts would be virtually none so the amount of school tax levy in both Longport and Egg Harbor Township would not change. Special Board Planner Wisner stated this would be the total levy not the impact of that levy on any individual house or individual property. Mr. Costello stated yes. He indicated it would be the total levy for the school their amount to be raised by taxation.

**May the record reflect Chairman Garth arrived @ 5:23 p.m.**

Mr. Costello stated in addition to the report there were other questions that were asked and he would like to supply and pass out this information. Special Board Solicitor Marcolongo marked the following information: Exhibit B117 Municipal Audit and Standard & Poor's Rating Services RatingsDirect, which is several pages, is Exhibit B118.

Mr. Costello stated on October 6<sup>th</sup> someone stated the ending fund balance in December, 2013 was \$535,000.00 and he indicated that number was extremely low for what a fund balance should be. The point was that if Township were to lose Seaview View Harbor's \$505,000.00 it could be make it up with the fund balance if we had it and he again advised that was an extremely low fund balance. Mr. Costello stated he was then asked what a normal fund balance and he indicated normally Standard & Poor's likes to see 10% as a fund balance but there is nothing in writing or documentation that this is a must.

Mr. Costello further noted that he had indicated previously he did not believe out of all of their towns anyone had a lower fund balance than this. Mr. Costello then noted through the authorization of Board Solicitor Marcolongo he compiled Exhibit B117. Advising this information can be found on the web pages of the 42 places noted. Mr. Costello stated the Township is at 0.85% of its budget, which is less than 1% of Township budget, which is obviously the lowest on Exhibit B117. He indicated there are a handful on this listing that are less than 10% but most of them are over 10%. He advised this is the data to support what he indicated on October 6<sup>th</sup> that the Township fund balance is low and if you had any issues at all you would have an emergency to fund them. Board Member Aponte asked what does "X" mean on this listing. Mr. Costello stated these reference the municipalities that are below 10% and the double "X" is Egg Harbor Township.

Special Board Planner Wisner asked does fund balance mean surplus. Mr. Costello stated yes. Special Board Planner Wisner asked how these municipalities selected. Mr. Costello stated it is his client list. Special Board Solicitor Marcolongo asked if Mr. Costello could explain the municipality of Shiloh that is shown on his listing. Mr. Costello stated their whole budget is \$357,000.00. He stated if they make \$40,000.00 and add to their fund balance it is over 10% of their budget. He indicated they have been sitting on their fund balance and they have no tax levy anyhow and this money is in reserve. He advised it is an anomaly because they are so small but their fund balance is twice the amount of their budget, but again their whole budget is \$357,000.00 and is the smallest on the listing.

Mr. Costello stated in conjunction with the fund balance issue and he had not seen the Standard & Poor's report but his guess was they did not like that condition and there would be a comment within their report. Mr. Costello then referred to Exhibit B118 advising the Board to go to their first page to review the bullets referenced within the report. Adding this is rating that has to be done when you have a bond sale and if you do not do a bond sale every year you do not receive this rating. He indicated they do updates but are not published unless you request it. Mr. Costello stated this is the official rating for Egg Harbor Township in 2014 and it was an "A+". He advised their rating system is "AAA", "AA+", "AA", "AA-", and "A+" so this is where you stand in the scheme of the ratings.

Special Board Solicitor Marcolongo asked if there were lowing ratings than "A+". Mr. Costello stated there is "A", "A-" and then there are "B's". He indicate everyone has been reading about Atlantic City being in the low's "B's". Mr. Costello stated most towns are at least an "AA-". He advised none in their group is a "AAA" on their own but are some in the group that are "AA+", "AA", a lot of "AA-" and a handful of "A+'s". Board Member Aponte asked if Mr. Costello could explain to the Board what the

Township rating means not in terms in funding capacity but what it means to the Township as far as borrowing cost. Mr. Costello stated he has had six (6) bond sales this year. He advised the market looks at the double A category as an ideal spot and of course a triple A is the best. He indicated by falling out of a double A it is worth a ½ point or two quarters of a point on your interest rate so if a comparing the single A to double A category, however, he added there are several mitigating factors to this. So if a bond was sold at 2.2 and it was dealt an "A+" it would have been sold for 2.7 or 2.9 somewhere in that area.

Board Member Aponte asked if he is to confer from this if we lost the ratables and we had to use this fund balance and we went out in the future to get money we would be downgraded. Mr. Costello stated they indicated this. He then referred to Page #3 of Exhibit B118 under "Outlook", second paragraph. Advising they could change the rating from "A+" to "A-". Special Board Planner Wisner asked what the difference would be from an "A+" to an "A-". Mr. Costello stated it would not change much because you would still be in an "A" category. Mr. Costello stated he did review a bond sale today and they had a double "AA" rating and it sold for 2.04.

Special Board Planner Wisner asked by referencing the same paragraph on Page #3 speaks to a reduction in the fund balance specifically. He asked if Mr. Costello has an opinion on what the loss of a ratable, Seaview Harbor, would mean on the rating. Mr. Costello stated he would be guessing. He noted they are more into the financial performance as opposed to the value of the Township. Though they do ask for the top ten (10) ratables in the community.

Board Member Aponte stated so this information is an analytical unbiased opinion to ratify what you said previously. Mr. Costello stated yes because he had said he did not believe this report would look kindly to your fund balance and this information backed up what said. Special Board Solicitor Marcolongo stated so we are not only speaking bonding capacity but also the potential impact upon interest rates if we were going out to borrow. Mr. Costello stated yes, that is what this would effect, the interest rates. Board Member Aponte stated it is the cost of borrowing. He advised the higher the rating the cheaper it cost the lower the rating the more it cost. Special Board Planner Wisner asked Mr. Costello that he cannot provide an opinion as to what the loss of Seaview Harbor would potentially mean to that rating. Mr. Costello stated he cannot at this time. Special Board Planner Wisner bonding capacity was addressed last time. Mr. Costello stated you are at 3 ½ % of value is at 95 million and the Township's capacity for borrowing is way under.

Attorney Doyle asked with respect to the report he asked Mr. Costello if he authored it from the title page to the conclusions in the back. Mr. Costello stated yes. Attorney Doyle and it was proofread. Mr. Costello stated he tried. Attorney Doyle stated Page #1 references the tax appeals for Seaview Harbor since January 1, 2015. He asked if this was to only show an evolution in the ratable base for Seaview Harbor. Mr. Costello stated it was fact that came off the Assessor's report as to what the appeals were to date. He indicated it was a fact nothing else. Attorney Doyle stated the assessor also included what came off the Egg Harbor Township ratable base other than Seaview Harbor. Mr. Costello stated yes. Attorney Doyle asked why had Mr. Costello had omitted that and place this one in. Mr. Costello stated we are only talking about Seaview Harbor.

Attorney Doyle stated the proportion of Seaview Harbor versus the whole of Egg Harbor Township, as indicated in Mr. Costello's previous testimony, was relevant and the trending of the proportion was relevant would you not need data to show what that proportion is and where it is going. Mr. Costello

stated he simply stated what the appeals were for Seaview Harbor as a matter of a statement on the report. He indicated it was not to draw any conclusions.

Attorney Doyle referred to Page 2 of Exhibit B116 he advised the number that is listed in item #3 was a critical error that changed all the numbers. Mr. Costello stated correct. Attorney Doyle stated so when we saw 4.6 it was 4.8 and when see 1.3 it was 1.4. Mr. Costello stated yes both the numbers changed. Attorney Doyle stated Mr. Costello gave round #'s as the effect on the taxes 300,000, 500,000 750,000, 1 million. He asked why Mr. Costello pick 208,100 again. Mr. Costello stated this was out of your report as to what the average was in 2014. Attorney Doyle asked Mr. Costello if he knows why he picked this number. Mr. Costello stated it was the average. Attorney Doyle asked if the average is relevant. Mr. Costello stated yes.

Attorney Doyle asked Mr. Costello if he knows what the median is in Egg Harbor Township. Mr. Costello stated no. Attorney Doyle asked would this be an appropriate number to know. Mr. Costello stated again these numbers are showing what these properties would be effected by. Attorney Doyle indicated there is a sentence that states "The remaining Egg Harbor Township taxpayers will see an increase of 5.9 cents". He indicated this is not a guarantee is it. Mr. Costello stated it is a guarantee off this snap shot if you took this data and took them out it would be a 5.9 cent increase. Attorney Doyle stated if you did not affect any budge efficiency, if there were no other revenue source or increase, if the budget remained exactly the same and the will of the Township Committee was to replace the total equivalence of the ratable loss with a tax increase. Mr. Costello explained what he stated on the 6<sup>th</sup> is that this is all if's and this is data we can use. Attorney Doyle indicated what he believes Mr. Costello stated on the 6<sup>th</sup> is that either the taxes go up or the school budget has to be reduced. Mr. Costello advised he said that could be done.

Attorney Doyle stated as he indicated in the beginning this is not a guarantee it is just an objective fact if the budget and everything was left in place and the only way approximately 5.9 cents worth is replaced by a tax shift. Mr. Costello stated he is not answering any "if's". He indicated this is a snap shot of where it stands if this were to happen this is the result that would have appeared in 2015. He advised 2016 is a totally different picture. He stated he is not sitting on the Governing Body to know what they are going to do with it. Attorney Doyle indicated as said by Mr. Costello the budget is a whole different process. Mr. Costello stated yes. Attorney Doyle so the objectivity of this is to look backward and where there is no way of replacing it other than by taxes. Mr. Costello stated this is correct.

Attorney Doyle stated when we heard testimony from the Police Chief that if the ratables were lost he it would mean spending reductions in the future, from the Fire Commissioners if ratables were lost it would mean a cut in his budget, the Ambulance Director testified similarly and the School Administrator testified similarly so this is not necessarily accurate. It would mean looking into the future and either a cut in the budget or a tax rate increase or a combination. Mr. Costello stated he used as an example "if" this were to happen would they reduce the police force and he indicated probably not. Attorney Doyle stated it would not just be the police department. Mr. Costello stated again they are all "if's" and hypothetical. Attorney Doyle stated but in the future it is one or the other. Either a tax increase or budget efficiencies or some combination. Mr. Costello stated and this is true every single year.

Mr. Costello asked Attorney Doyle to refer to Page 9 of this report. He advised the local purpose tax levy in 2009 increased from 15,559,656.00 into 2015 of 22,426,190.00. Mr. Costello stated obviously it goes up every single year and if it were to go down, he cannot wait to see it. Attorney Doyle asked Mr. Costello if he has looked at the tax rate in Egg Harbor Township over the years to see if it went down.

Mr. Costello stated he is looking at from 2009 to 2015 and its up 44% or 7.4% per year. He stated no he did not look at every single year. Board Member Aponte asked if this includes the school. Mr. Costello stated no. It is just the Township tax.

Attorney Doyle asked Mr. Costello on Page #3 why had Mr. Costello pick \$750,000.00 for Seaview Harbor. Mr. Costello stated he ball parked the amount of properties that looked like about what the average assessment was. Attorney Doyle stated so for the appropriate thing that he had previously for Egg Harbor Township as a whole you were trying to figure out what would be the average because that would give you the best yard stick. Mr. Costello stated yes. He added he did not verify this with the assessor that this was the average. Attorney Doyle stated in view of the fact that Mr. Costello had the same report from the Assessor that he had OPRA which showed the assessments for residential purposes in Seaview Harbor was \$79,773,700 and the testimony throughout that there is 92 homes in Seaview Harbor would not the computation be simple by dividing the number in front of you by 92 homes. Mr. Costello stated sure and he ball parked the number to \$750,000.00.

Attorney Doyle stated by doing the arithmetic, which he asked is the correct way by dividing the assessment by the number of residential homes. Mr. Costello stated yes. Attorney Doyle stated he comes up with \$867,100.00 and if you then multiply this by the difference between the two (2) tax rates it would have shown \$17,992.32 so on the tax consequence, as Mr. Costello knows and as he testified in Upper, tax consequences on both sides are relevant, correct. Mr. Costello stated yes.

Attorney Doyle so the snap shot loss for this pass budget year for the average homeowner in Egg Harbor Township is \$122.78 and the average loss to the Seaview Harbor homeowner, if the petition were denied, is a few dollars short of \$18,000.00. So the difference is a 146 times. Mr. Costello stated whatever it is sir. Attorney Doyle stated to analyze this a bit further that \$122.00 loss to the degree most people are paying a mortgage on their household we are talking about a \$10.00 monthly difference. Mr. Costello stated yes. Attorney Doyle stated we could take this down to even a week or a day and find that it amounts to .13 cents a day.

Attorney Doyle then referred to Page 8. He indicated it states "since 2009 the Net Valuation has fallen except for 2010 and 2014". He indicated as discussed last hearing is largely effected by tax appeals overriding the amount of added assessments. Mr. Costello stated yes. Attorney Doyle stated we also discussed added assessments. He asked if Mr. Costello reviewed what the added assessments where. Mr. Costello stated there were no added assessments in Seaview Harbor. Attorney Doyle asked what about Egg Harbor Township. Mr. Costello stated there were but he did not get that but there were none in Seaview Harbor. Attorney Doyle stated if we were to start looking at the 2016 budget we would have to know what happen on both sides of the ledger the tax appeals that reduced the ratables and the added assessments that increased the ratable base. Mr. Costello stated it would not be for the budget but for what the eventual tax rate would be. He indicated the budget is the budget and it is driven by expenses and revenues not tax assessments.

Attorney Doyle stated he followed the meeting by an OPRA and asked the assessor to provide the total dollar amount in added assessments on all properties in Egg Harbor Township excluding those in Seaview Harbor from 2008 to 2015 and to provide a total dollar amount and added assessments for only those properties located in Seaview Harbor from 2008 to 2015. Attorney Doyle advised the Assessor provide this information and he took the liberty of adding the columns. He then presented a copy of this to Special Board Planner Marcolongo and it was marked as Exhibit S150 three (3) sheets Egg Harbor Township added assessments and one has been changed by Mr. Doyle adding the columns, the other is

the actual document from the assessor and the OPRA request. Attorney Doyle stated looking at trending and added assessments as they relate to valuation since 2008 Egg Harbor Township has attracted new added assessments of just over a quarter of a billion dollars or 250,000,000.00 and of that 1 million or point 4<sup>th</sup> tenths of one percent came out of Seaview Harbor. Mr. Costello stated ok. Attorney Doyle asked what does this tell you looking at trends. Mr. Costello stated it tells you Seaview Harbor is built out and the rest of Egg Harbor Township is not and that is where the growth will be. Attorney Doyle in the rest of the Town. Mr. Costello stated yes. Attorney Doyle stated the values and the numbers and the proportions all speak for that growth in the non-Seaview Harbor part and this will continue. Mr. Costello stated he guesses it will.

Special Board Solicitor Marcolongo asked Attorney Doyle if he has completed his line of comments concerning added assessments. Attorney Doyle stated for the time. He indicated he will come back to it later. Special Board Solicitor Marcolongo stated he was thinking about added assessments before the meeting tonight and he wanted to read to the Board from Judge Perskie's decision in the Avalon Case regarding added assessments. Special Board Solicitor Marcolongo then read onto the record what the court wrote. After Special Board Solicitor Marcolongo read from the decision he indicated he does not believe the court would agree that using added assessment would be an appropriate consideration by this Board.

Attorney Doyle stated it is a little early to argue the law. He stated let us first get the facts and then we will argue the law. In any event that the law has been brought before you in a part basis, please note the quote said for the most part these are one (1) shots. Added assessments are clearly not. He stated number two (2) we do not suggest they be considered solely that they ameliorate the tax increases. What Mr. Costello has previously testified is that the effect of the loss of Seaview Harbor over years will be ameliorated by greater growth that is happening in Egg Harbor Township not only with ratable growth but with economic development. Attorney Doyle stated we mentioned the hotels that would be turned into taxable properties, the abatement program and a whole litany of things, as he has just said, added growth.

Attorney Doyle stated what is important is the proportion that they are of the Township. He indicated when we filed this petition we were 2.48% of the tax rate. He indicated as of, before he received the added assessment information, that had dropped twice every year and now it is 2.24%. He stated he believes this is a legitimate and factual legal consideration so he has responded to the legal argument but he believes it is time for the board to assay the facts. He stated the Board will have time to hear from the lawyers at the end. Special Board Solicitor Marcolongo stated he felt it was important for the Board to have this information while added assessments were being discussed.

Board Member Aponte stated he is looking at this information for the first time. He indicated there were 352 properties, 11 commercial which does not bring any children to the school system. He indicated the 341 residential could possibly bring school aged children which could raise the rate. He asked if this is what he is looking at. Attorney Doyle stated you are looking at 11 commercials that brought in on average \$380,000.00 and 341 residential might have mean someone added a porch, deck, a living room, or second floor, whatever. He indicated whether this brought children to the schools we cannot say. Board Member Aponte asked is the 341 residential new housing units or changes. Mr. Costello stated it is a combination. Attorney Doyle stated he would say the same thing. Board Member Aponte stated so this could be a pool, a deck or whatever it does not specifically state. Mr. Costello stated or it could be a \$600,000.00 home. Attorney Doyle stated it could be any of those mentioned and all it means is yeas there is an opportunity to have a larger ratable base.

Board Member Aponte asked if we should not be provided this information. Attorney Doyle stated no. He indicated the relevance of any of this goes to taxes not to if someone wanted a new house or a new porch. Board Member Aponte stated the way he is looking at this it means 200 of the 341 are homes with 2.5 kids and you are at a deficit. He indicated for every child that goes into the school system you are at a deficit. So to him it is important that is why he asked for the information and if it is decks then fine. Attorney Doyle stated when you say 2.5 he would hasten to remind him the numbers that we saw from the business administrator that despite the growth in Egg Harbor Township the enrollment is going down so there is no guarantee that there is "a" child coming out let alone 2.5 for every new home. Board Member Aponte stated he is just trying to understand, he never saw this page, he is trying to understand or as a fact finder is the 341 homes or decks. Attorney Doyle stated it could be either or both. He indicated it is a combination as he and Mr. Costello agreed. Board Member Aponte stated he does not know how to give that weight.

Special Board Solicitor Marcolongo asked what Mr. Costello's comment would be. Mr. Costello stated if we took 2008 off, since the data he provided is from 2009 to 2015, there is 200 million even that was put on in those seven (7) years and that amount of money compared to 4 billion is what percent. Attorney Doyle stated 5%. Mr. Costello stated on Sheet 9 it shows the tax levy went up 44% in that same period of time. He indicated the ratables are not keeping up with what the Township is spending. He indicated that is a trend he will not use any "ifs" concerning what may happen next year but in light of what has happened with ratables and tax levies within the last six (6) to seven (7) years the ratables have not kept pace and there has been a tax increase of a much larger proportion than what the ratable increase was.

Attorney Doyle referred back to Page #8. He asked Mr. Costello if the statement "Since 2009 the Tax Rate has increased by 2.0 to 4.5 cents every year". He asked if this statement is correct. Attorney Doyle advised it is not correct. He asked Mr. Costello has the tax rate not increased anywhere 5.9 cents to .17 cents. Mr. Costello stated it is the percent increase. He apologized. Special Board Solicitor Marcolongo confirmed, as well as, Mr. Costello that this should say percent not cents.

Attorney Doyle stated Board Member Aponte had asked Mr. Ryan with respect to how many cents it would be and at that point Mr. Ryan indicated it was 5.9 cents and a year later it is the same number. Attorney Doyle asked Mr. Costello if the effect on the tax rate is a snap shot is 5.9 cents and this past year the budget when up 5.9 cents the double barrel effect, which was Board Member Aponte's to Mr. Ryan, the tax increase would be 11.8 cents. Mr. Costello stated if that were to happen in 2015 that would have been the result all the numbers were the same. Attorney Doyle stated at 11.8 cents it would have been a lesser tax increase than this town put upon the taxpayers in 2010, 2011, and 2012 according to Mr. Costello's chart. Mr. Costello stated yes.

Attorney Doyle then referred to Page #9. He indicated both Mr. Costello and Mr. Ryan made it clear the County tax rate is irrelevant to the questions here because that is going to be passed through. Mr. Costello stated yes. Attorney Doyle asked why is it included on this chart. Mr. Costello stated it is all the tax levies and it is just information. Attorney Doyle asked if it not relevant in other places why is it relevant here or is it. Mr. Costello stated it is the data that comes from the County Board of Taxation was a 120,717,000.00, as referenced on the next page, as the County for the whole amount. The schools and the local purpose has been mentioned many times in this report. It is to show it as an equal. Attorney Doyle asked if you took the County out the percentage would go down. Mr. Costello stated it would go down because they are at 6.9%, which is higher than 4.1%.

Attorney Doyle then referred to Page 23. He stated Mr. Costello received the same information that he had. He continued by indicating Mr. Costello had previously stated the effect of the tax appeal has to be considered from year to year. He asked why had Mr. Costello not submit the second page of what was received. Mr. Costello stated he used this page to back up the numbers of the assessed values. He was not using the appeals as part of his report. Attorney Doyle asked or the added assessments. Mr. Costello stated or the added assessments. Attorney Doyle stated but for budgeting at the end of the year. Mr. Costello stated for calculating the taxes the budget has nothing to do with the value of the town. Attorney Doyle stated the tax appeals and the added assessments have value. Mr. Costello stated when you dividing out what is not to be raised by taxation, yes, which he indicated as Attorney Doyle has pointed out was up .17 cents, .17 cents, .12 cents.

Attorney Doyle asked if Mr. Costello could compute a starting tax rate for 2016. He indicated by saying this he means Mr. Costello could look at the added assessment subtract out the tax appeals and divide the results into the levies. Mr. Costello stated by January 10<sup>th</sup> we will have the official book from the County as to what the 2016 value is. He indicated it changes throughout the year even after the appeals and the added assessments. Attorney Doyle stated such as assessors corrections, errors and the change is very nominal. Mr. Costello stated yes, but it changes it, but you could get a relatively ball park idea of what your value is going to be.

Board Member Aponte stated he would like to go back to what Attorney Doyle called double barrel and what he calls compounding effect. He indicated he wants to make sure he understands the answer correctly. Board Member Aponte stated on a year to year basis, if Seaview Harbor were to secede and referring to Page #8, if you have a tax rate of "X" and then you subtract it by the loss, and if everything else stayed the same, would it not have a compounding effect in the future. Mr. Costello stated if you had taken Seaview Harbor out of the tax information at 5.9 cents and as Mr. Doyle stated it would have been 11.8 cents. He stated the 5.9 cents lost from the ratables and the 5.9 cents that you already have. Board Member Aponte stated but if it went up in the future it is still a compounding effect. It would go higher and higher. Mr. Costello stated sure and every budget will determine what that is going to be.

Freeholder Carman stated when Attorney Doyle was speaking of the tax increases it was for everything not just the municipal tax. Mr. Costello stated yes. Attorney Doyle asked Mr. Costello if he knows what the County tax rate changes from year to year. Mr. Costello stated it varies and this is the worst what "if". Attorney Doyle stated because of the ratio. Mr. Costello stated yes.

Board Member Aponte asked we only have a \$555,000.00 surplus. Mr. Costello stated the report was prepared using 2013 audit information. He advised in 2014 we had \$325,000.00, which is from the audit report. Special Board Solicitor Marcolongo asked the surplus dropped by \$200,000.00. Mr. Costello stated yes. Board Member Aponte he asked if it is a function of keeping the tax rate lower by using some of our surplus to achieve a means and he assumes it changes every year. He then noted, it is probably a questions more for the Township Father's and Mother's. Mr. Costello stated yes.

Attorney Doyle asked how a municipality generates a surplus. Mr. Costello stated the components that generate surplus are a tax levy and if that tax levy is collected at more than what you anticipated the more goes into the fund balance. He advised you have a whole series of miscellaneous revenues. He used municipal court as an example. Advising you might have expected to collect \$680,000.00 from the court and you collected \$700,000.00 so \$20,000.00 would go to the fund balance. Mr. Costello stated you prepare a budget to spend \$38,499,000.00 and you spend \$38,299,000.00 so \$200,000.00 goes to the fund balance. He indicated another would be you receive money from unanticipated sources. He

indicated for what every reason an item of revenue came in not anticipated in your budget. Attorney Doyle stated so creating surplus is by taxing more than you needed to, finding out money you expected came in greater than you expected or money you never expected came in, or you spent less than you thought you would. Mr. Costello stated they are the four (4) components. Attorney Doyle stated one way to get the surplus up is to tax people more just to create a surplus. Mr. Costello advised you can spend less. Attorney Doyle stated this is a matter of how the government is operating. Mr. Costello stated the whole process is what the governing body wants to do. Attorney Doyle asked if the suggestion is by having an insufficient surplus, in your eyes, means Egg Harbor Township is not operating properly. Mr. Costello stated he did not say that. Attorney Doyle stated he is asking Mr. Costello. Mr. Costello stated he advised it is an extremely low fund balance, Standard & Poor's, is saying they do not think that is very good.

Attorney Doyle other than a surprise in a revenue item or something comes in unexpectedly the only way of creating a greater surplus is by cutting expenditures and appropriations or raising taxes. Mr. Costello stated or getting additional revenues that you were not expecting. He indicated in the years when the added exceeded the appeals the added will generate more money than you thought you were going to get in February or March when you did the budget. Attorney Doyle stated Mr. Costello stated traditionally he would like to see close to 10% of the appropriation or 3 million dollars. He asked Mr. Costello if he is suggesting Egg Harbor Township should carry a surplus generated by more taxes or budget cuts or surprises. Mr. Costello stated the rating agencies say this not him.

Attorney Doyle then read from a sentence the following "traditionally you would like to see close to 10% of the appropriations or 3 million dollars". He asked if you in this sentence is Mr. Costello or the bonding agency. Mr. Costello stated the bonding company. Attorney Doyle asked Mr. Costello what he would like to see. Mr. Costello stated it does not make a difference to him. Attorney Doyle stated in helping to manage a municipalities wellbeing including having an appropriate fund balance do you not make a certain number of suggestions. Mr. Costello indicated as he previously noted he does speak with this governing body. He indicated their role is to answer questions, make sure they are State compliant. We are independent and not to be in control of what they do. Attorney Doyle asked if this Township not in compliance with any financial standard, promulgated rule, regulation or other standard practice. Mr. Costello stated not that he is aware of.

Attorney Doyle with respect to B118 he asked if there is anything within this report that would be different if Seaview Harbor was not part of Egg Harbor Township. Mr. Costello stated he answered this earlier that he does not know. Attorney Doyle stated this report does not address ratables or ratable growth. Mr. Costello stated it does not look like it addressed the ratables at all. Special Board Solicitor Marcolongo asked Mr. Costello to review the last sentence of the first paragraph "Market value is currently 4.4 billion,". Mr. Costello advised that is just a statement it does not address whether it is good, bad or indifferent.

Attorney Doyle added it starts off that it is an "A+" and it's stable. Mr. Costello referred to the third page it states they would be looking to lower the rating if what they thought could happen; happened, which did happen. Attorney Doyle stated if budgetary performance were to deteriorate or if the available fund balance were to decrease below \$500,000.00. Mr. Costello stated yes and it did. Attorney Doyle stated this is a far cry from your 3 million. Mr. Costello stated they are using the benchmark that they had and they didn't want to see it go lower than what it was. He advised they were also forecasting that it would rise to 1.5 million, as noted in the second bullet on the first page,

over the next three (3) years. He indicated that they were expecting for it to go up and closed with if it goes down they may lower the rate.

Attorney Doyle stated for the record he would like to read another review of the Township's economic performance and asked if he would agree "Egg Harbor Township is known as a friendly place to live. Quality Services are provided for a reasonable cost as the residents of Egg Harbor Township enjoy the lowest tax rate of any full service community in Atlantic County". Mr. Costello stated he cannot comment to this. Attorney Doyle asked Mr. Costello if he knows this is right or wrong. Mr. Costello stated no. He advised he could research it. Attorney Doyle stated for the record this is a statement drawn from the Township's Web Site when they provide a brief Biography of the Township Committee Person's and it is head with that quote.

Attorney Doyle asked if Mr. Costello participates in the budget discussions that go on when the books are struck in January and through the process with the department heads coming in, the administrator preparing a draft budget, presentation of first reading, public hearing and second hearing. He asked if he is a part of this. Mr. Costello stated he was not the partner in charge so he was never within these discussions.

Attorney Doyle provided two (2) memorandums to Mr. Costello he indicating one is dated February 12, 2014 and February 21, 2014 from Township Administrator, Peter Miller to Mayor McCullough and members of the Township Committee. Special Board Solicitor Marcolongo these documents Exhibit S151 indicated these are two (2) separate documents with the February 12, 2014 memorandum from Township Administrator, Peter Miller and the second document dated February 21, 2014 titled 2014 Municipal Budget contains only Pages 1-4 of what was a 13 page document.

Attorney Doyle then read the first (1<sup>st</sup>) paragraph from the memorandum dated February 12, 2014. He then asked Mr. Costello when the "auditor" is referred too is it implying Mr. Moore, himself or the firm in general. Mr. Costello stated in this case he is referring to Mr. Moore who was the auditor at the time. Attorney Doyle then referred to last paragraph of this memorandum and read the second sentence onto the record. Attorney Doyle asked again the reference to auditor means Mr. Moore. Mr. Costello stated yes. He also added this references to the annual financial statement, which is an unordered document and gets prepared and sent to the State which would indicates several benchmarks the Township must comply with and this is what he is referring to and he is waiting for those benchmarks and what they are.

Attorney Doyle advised one of the items they are waiting on to figure out what they are going to do with the budget is what the State is going to do and is mentioned in the second (2<sup>nd</sup>) paragraph. Mr. Costello stated this is always a concern. Attorney Doyle explained because that will affect how much money is available to meet the budgetary needs. Mr. Costello stated you can think of the budget as two (2) buckets. He stated the left hand bucket is all revenues and the right hand is all the expenses. He advised if the Town is going to spend this much money it means revenues are this much money. Mr. Costello stated you take the total amount of other revenues that are not taxed and if they go up the tax can stay the same depending upon what the spending is or go down. He advised if State aid were to decrease and all the other revenues were to stay the same the tax levy would go up.

Attorney Doyle stated he understands. He further noted in the third (3<sup>rd</sup>) paragraph Mr. Miller wants to limit the tax increase to .2 cents and if you look at the second (2<sup>nd</sup>) memorandum dated February 21, 2014 there is a budgetary increase of \$837,000.00 versus the earlier memorandum that proposed an

increase of 736,000.00. Attorney Doyle asked Mr. Costello that there is always some play in the budget even trying to maintain the same tax rate is there not. Mr. Costello stated there are all kinds of things going on with the budget. He stated it is a working project from day one. He advised the first one may have had additional hires and the second one may not have hires. He indicated the governing body makes decisions on everything as they review the information that is presented. Mr. Costello stated this will change all the way up until it is adopted.

Attorney Doyle stated comparing the two (2) memorandums the first has the police department receiving \$210,624.00 and within the second memorandum they have a spending increase of \$385,124.00 so within the same budget constraint they were able to move the numbers around so the police department was increased by \$175,000.00. Mr. Costello stated it could have been based on hiring, a wage increase, he advised it could have been many, many factors. Attorney Doyle stated in 2014 when both of these memorandums were dated Seaview Harbor was a part of Egg Harbor Township. Mr. Costello stated yes. Attorney Doyle stated within the same budget they were able to find another \$175,000.00. Mr. Costello stated Attorney Doyle is taking this way out of perspective. He advised this document starts probably in September. He indicated it grows and grows daily, weekly, monthly. He advised if you look at the final adopted budget probably none of these numbers were used.

Attorney Doyle stated sitting in Mr. Costello's chair not long ago was Chief Davis who calculated, wrongly may he add, he was going to lose by the ratable loss of Seaview Harbor \$175,000.00. He stated if the police budget at least proposed went up by \$175,000.00 it had nothing to do with whether or not ratables came or went did it. Special Board Solicitor Marcolongo stated when Chief Davis was discussing the \$175,000.00 he was projecting forward. This is a number that is coming from 2014. Attorney Doyle stated it is coming from an unchanged source. He noted a \$175,000.00 is \$175,000.00. He said with Seaview Harbor he is going to lose \$175,000.00 as if it were guaranteed, however, as Mr. Costello said the whole process is open and there are no guarantees that you are going to gain or lose. Special Board Solicitor Marcolongo stated and at this point these are just Mr. Miller's suggestions, correct, when he issues this document. Mr. Costello stated this is correct.

Attorney Doyle stated he will pull out the budgets to see what it went up. Mr. Costello stated it would not make any difference. Attorney Doyle then asked the Court Reporter to read back the question on the record. Mr. Costello stated he did not propose any of these budget numbers to clarify what he said. He advised none of this was his proposal. Mr. Costello stated he had nothing to do with these documents. He advised he did not propose they increase this budget for police. Attorney Doyle stated he understands, however, the budget has the flexibility to move and shift a \$175,000.000 to police without a tax rate change. Mr. Costello stated he does not know it may change the tax rate. Attorney Doyle asked what is a penny in Egg Harbor Township. Mr. Costello stated \$407,400.00.

Board Member Aponte stated in the process of making the budget many numbers are thrown around and these may seem proforma at one point but end up being not. He stated is this what he is understanding. Mr. Costello stated yes. It is a process that normally starts in September but things change daily. Special Board Planner Wiser asked if the Township received a grant that had to be used would that be included in the numbers shown. Mr. Costello stated this information appears to be spending to be raised by taxes.

Attorney Doyle asked the report from Standard and Poor's is dated August, 2014. Mr. Costello stated this is the date. Attorney Doyle advised what they concluded is that it was an "A+" and stable and they

did the bonding. Mr. Costello stated yes, of course. Attorney Doyle then read onto the record another review from August, 2014: "The Township's solid fiscal management is directly related to its ability to maintain a good credit rating and benefit from low interest rates". He asked Mr. Costello if this is accurate. Mr. Costello stated he cannot comment on this. He asked what the statement is from. Attorney Doyle stated Mr. Costello put forward a document that speaks for the Township and he is reading from another document asking if Mr. Costello accepts the statement that the Township is under solid fiscal management as of August, 2014. Mr. Costello stated the Township has an "A+" rating, which is in the middle ratings. Attorney Doyle asked how many classification of ratings are there. Mr. Costello went through the ratings scales for "A's" again adding you also have "B's" and then junk.

Attorney Doyle stated Mr. Costello counted out seven "A's" are there as many "B's". Mr. Costello stated yes and "C's". Attorney Doyle asked and then there are "C's". Attorney Doyle asked if there is 21 ratings based upon what he counted as seven (7) within each. Mr. Costello stated he does not know how many ratings there are. Attorney Doyle stated these are even before we get to "junk" and Egg Harbor Township enjoys the 5<sup>th</sup> highest. Mr. Costello stated yes, the 5<sup>th</sup> highest. Attorney Doyle asked and it would be a guess, as Mr. Costello, indicated as to what the effect would be with the loss of Seaview Harbor. Mr. Costello advised it would be a pure guess.

Attorney Doyle then read into the record another review "the Township has been considered by the State of New Jersey as one of the best run municipalities". He asked if this statement is accurate would the loss of Seaview Harbor change that. Mr. Costello stated he cannot comment on that. He stated "run" in what respect trash collection, police services. Attorney Doyle stated for the record the comments were from a press release issued by the Township Office of the Mayor dated August, 2014.

Attorney Doyle stated with respect to the 2015 budget, there has been comments made about tax appeals and tax appeal history, and the user friendly budget on-line notes how many line items there are and how many tax appeals. He asked if he were to there are 19,222 line items on the budget anyone of them can appeal. Mr. Costello stated sure. Attorney Doyle asked if he saw that there were 922 made, which is roughly 5% would Mr. Costello indicated with his knowledge 5% high or low. Mr. Costello stated on average that is high. Attorney Doyle stated even in a post revaluation that is high. Mr. Costello stated you asked me in what I have seen I think that is a high number on average from other towns. He added Attorney Doyle has asked a question he does not have the data for but could produce later.

Attorney Doyle ask Mr. Costello when he looked at the at tax appeal sheet that the assessor provided by he and Mr. Costello did the numbers for the appeal reductions strike you as high or low. Mr. Costello advised for the size of the ratable base they are probably on average. He would not say they were high or low. Mr. Costello stated they were probably average. He noted there were towns that were worse. Attorney Doyle stated to the degree that in the 2015 budget the 10 million dollars of ratable reduction 35% of it came out of Seaview Harbor. He asked is this not unusual that one small neighborhood would have a 35% reduction. Mr. Costello stated that is very usual. Attorney Doyle asked why. Mr. Costello explained take a town that has beach and bay property. When appeals come out they are primarily on both of those sides not down the middle. He indicated they are areas that are usually successful appeals. He stated it is very common.

Attorney Doyle stated he would like to discuss with Mr. Costello abatements but understands he is not the partner that deals with the budgets. He stated if Mr. Costello will recall the admission into evidence of the Assessor's chart that shows the assessed value was a total of 36 million dollar and the pilot billing

was \$302,000.00 and that is because of the reductions previously discussed (20%, 40%, 60%, 80%). Attorney Doyle stated the user friendly budget added a number that we did not have previously. He then asked Mr. Costello what would have been the taxes billed in 2014 adding he thinks this is the question that Board Member Aponte had asked Mr. Ryan and he was not able to provide an answer. Attorney Doyle stated the answer from the budget is 1.62 million, which he indicated is a difference of \$760,000.00. Attorney Doyle then asked Mr. Costello if he reads this correctly that the town by going into pilot made a judgement to take less in tax money, get it all, and not share with anybody but the County. Mr. Costello stated with a pilot the County receives 5% of the pie. Attorney Doyle stated the town gets 95%. Mr. Costello stated the schools receiving nothing. Attorney Doyle stated when this gets to full value that will be \$760,000.00 more in the Township's coffers. Mr. Costello stated as the years go by, yes. Attorney Doyle stated so this is another element of predictable growth in Egg Harbor Township. Mr. Costello stated that is predicable, sure.

Board Member Aponte stated assuming there are no tax appeals because from 0 to 100% there is no tax appeal, but once you are at the 100% they can submit for a tax appeal. Mr. Costello stated this is correct. Attorney Doyle stated as indicated anyone can submit a tax appeal but out of this past year a 4 billion ratable base the total amount of tax reductions was 10 million or ¼ of 1%. Mr. Costello stated this is what the assessor showed. Board Member Aponte stated his point was it is all variable. He indicated this is all that he is saying. He stated Mr. Costello made the statement that it is predictable but it actually is variable. He asked if he was right or wrong. Mr. Costello stated it is predictable for the 0-100%. Attorney Doyle stated it is predictable but people lay odds and if it can go either way which is 50/50. When the odds in this case that tax reductions amount to a ¼ of 1% it is something you do not worry about as much or assume it is going to happen. Freeholder Carman stated during the abatement period the Township does benefit but thereafter the Township takes a reduction on that property from what was collected. He asked if this is correct. Mr. Costello stated they will because now it becomes a regular assessment and schools will be included. Board Member Aponte stated so of the \$700,000.00 number it is less. Township Committeewoman Pfrommer stated yes, because the schools will now receive their cut.

Attorney Doyle stated we had discussed there are revenue sources other than tax levies. He indicated in the budget there is a reference authority assets and it has run approximately \$250,000.00. He asked what this is. Mr. Costello directed Attorney Doyle to sheet 10 of the budget. Again, he stated he does not do this audit but generally speaking that is probably from the utility authority. He indicated there is a percentage they are allowed to contribute to the Township. He stated typically it is 5% of their free balance. He indicated there is a sheet (SS9) of their budget that shows the calculations and it provides the number in which they are allow to provide the Township. Attorney Doyle asked if Mr. Costello knows if they are giving the maximum or not. Mr. Costello stated he does not know.

Attorney Doyle asked Mr. Costello who the audio is for the Municipal Utility Authority. Mr. Costello stated it is Ken Moore also. Attorney Doyle stated if he looks in the Authority budget for 2014 he municipal contribution is \$237,000.00 and shared with Mr. Costello. Mr. Costello stated his is correct. Attorney Doyle stated this is the Municipal Utility Authority (MUA) contributing their revenue to the Township. Mr. Costello stated he would assume so. That is what the money is for. Attorney Doyle stated if you look at the 2015 budget and see \$240,000.00 received, which he noted he is curious, as to why it is not the same exact amount. Mr. Costello advised they could have elected to given them more. He advised he cannot explain what the difference would be. Attorney Doyle stated nevertheless it is quarter of a million dollars that does not come out of the taxpayer and is subject to a ceiling, but is there on what could be a regular basis. Mr. Costello stated it could be on a regular basis.

Attorney Doyle asked Mr. Costello to stay on the sheet that they reviewed. He indicated there is a comment on this sheet under "economic factoring next year's budget and rate; the anticipated growth in the Township is not expected to change over the next few years". Attorney Doyle asked if this is a projection auditor. Mr. Costello stated he does not know what this is Page 12 of. Attorney Doyle stated it was taken from the MUA audit. Mr. Costello stated then it would be the statement made by the auditor. Attorney Doyle stated so this is the other elements of growth that we talked about in Egg Harbor Township. The projections; the trends. Mr. Costello stated it says it is not expected to change over the next few years.

Mr. Costello added he would like to make one more statement on the \$247,000.00. He indicated every future budget depends upon this being there from now on. He indicated it is a must or else the taxes will go up if this is gone away. Attorney Doyle stated this is like any other revenue source that drops is it no. Mr. Costello stated sure, all of them. Attorney Doyle so when the Township enters into a new shared service dispatch agreement with Longport which they get approximately \$300,000.00 a year and if the Atlantic County has a County wide dispatch in three (3) years and Egg Harbor Township loses its contracts with Northfield, Longport and the third town that they have. The Township would have to make that up. Mr. Costello stated sure. Attorney Doyle stated so there is no exact, for sure circumstances that happen in the budget. Mr. Costello advised this was his point all along the "if's" are too much.

Attorney Doyle stated the general premises for the people who testified for the Township, in almost similar words, if we lose Seaview Harbor we will lose money out of our budget. Attorney Doyle placed this in perspective. He advised we heard testimony from the police chief that in 2007 the police department was at its maximum strength, 101 police officers. He indicated by 2011 the Chief indicated it had dropped to the high 70's. Attorney Doyle stated during that time the municipal tax rate from roughly .42 cents to .72 cents. He indicated does this not make your point that merely because taxes go up and the police strength goes down what happens to that money is unrelated to whether the taxes go up or down. Mr. Costello asked if Attorney Doyle could state this again.

Attorney Doyle advised he is trying to compare the police chief's testimony that if Seaview Harbor left he would face a loss in revenues and as a result the police function would be constricted. Mr. Costello stated ok. Attorney Doyle stated he now looks at history instead of the future and see a strength of 101 police officers in 2007 and a stated police strength in the high 70's in 2011 and while the strength went down the tax rate went up. So his question is there is no cause and effect necessary between whether the tax rate goes up, the budget goes up and what happens in terms of where the money is spent.

Mr. Costello stated again it is two (2) buckets a revenue bucket and a spending bucket. He indicated both sides change. He advised one year they lost a ton of State Aid and probably reduced the police force because of its loss. Mr. Costello stated he did not hear the police testimony but probably what the police said was of his total budget if Seaview Harbor were not part of it the percent of tax that were lost would be \$175,000.00. The police budget does not lose revenue. There is no revenue associated with the police budget per say. It would have to be from this side of the table on spending. He may have been saying he has to cut \$175,000.00 to keep the taxes even might have been what he said.

Attorney Doyle stated if, as we said before, it was effected by solely tax shifting as opposed to budget efficiencies or as suggested in the 2014 budget statement they are going to shift some money to give police more money. This could happen too. Mr. Costello stated those line items shift everyday as he indicated before. He stated you are making a case out of something that is not relevant. He advised the

budget is a working document for six (6) months. He stated the one you want to look at is the one that was adopted in April or May that is the budget that is final. Attorney Doyle stated the 2007 budget he referred to was adopted, the 2011 budget was adopted and the tax rate for each of those years are given. Mr. Costello stated the analysis given earlier as to why it changed from February 12<sup>th</sup> to the 21<sup>st</sup>. Attorney Doyle stated that is not the question. He stated if police strength went down and the tax rate in this municipality went up the effect between taxes and police strength and what the function is; is not necessarily cause and effect it is a matter, like Mr. Costello said everything with the budget is an open game.

Mr. Costello stated yes, because pension went up a lot, insurance probably went up a lot and what they had to do is probably reduce police. Freeholder Carman stated he wants to question because he does not want to testify but would it not be possible that in 2007 the Township if they lost a whole squad because a contract with the airport covered it and they lost multiple school resource officers and the funding that came in with them. That would change it and it would not affect the budget at all. Mr. Costello stated yes, many factors.

Attorney Doyle stated we have discussed the tax rate. He asked Mr. Costello how he characterizes for a municipality a 1.3 cent tax rate. He asked Mr. Costello if this is nominal, typical. Mr. Costello stated it is typical. Attorney Doyle asked what of 5 cents. Mr. Costello stated still typical. He indicated there are from -0- to 15, to 20 cent increase. Attorney Doyle asked if tax rate increase to 5 cent be appropriately called, in Mr. Costello's belief, modest. Mr. Costello advised it would depend upon the town. He stated it is not a stock answer. Attorney Doyle asked if a 4.9 cent tax increase in this Township be a modest tax increase. Mr. Costello stated it is a modest tax increase. Attorney Doyle stated not to place unnecessary documentation onto the record. He advised in the 2011 budget message from Administrator Miller stated "this year's budget required a 4.9 cent tax increase. Even with this modest increase our local property tax purpose tax rate is still 20% less than the average County local tax property rate and is 5 cents less than last year's, which meant it was 10 cents".

Attorney Doyle stated the assessor has been mentioned several times. He indicated Mr. Costello stated he had not discussed his testimony with anyone else and the only figures given from any outside source within the Township was the assessor with respect to the assessment information. He asked if this is correct. Mr. Costello stated yes. He advised this is where he received his information. Attorney Doyle stated and when he reads the abatement resolution and it has the typical language that it has been reviewed by the tax assessor who says it is consistent. So the assessor plays a role in this also. Mr. Costello stated might. Attorney Doyle stated the assessor also plays a role in what happens with tax appeals. Mr. Costello stated sure, yes.

Attorney Doyle stated the whole idea of ratables, which is the largest source of revenue because of the levy, all comes out of the assessor's office. Mr. Costello stated a correction the ratables are not a revenue producer at all. He indicated they are a divider that gives you the tax rate. He stated the right side of the budget is what you spend and the left side of budget is what you are going to collect. He stated you raise money from all sources and the last thing is how much you are going to raise in taxes. He indicated that is the revenue. Attorney Doyle asked if you have more ratables the rate will be less. He indicated the ratables make money only because you multiple the amount of ratables by whatever the rate happens to be. Mr. Costello stated again, they do not make money. They determine what the rate will be. They are not a revenue producer. He used as an example when the revaluation went from 2 billion to 4 billion not one penny more was taken in by the Township. Attorney Doyle asked if Mr.

Costello is saying ratables are not a money maker. Mr. Costello stated new ratables are a money maker for that current year but ratables do not generate revenue.

Attorney Doyle asked if within the same budget you have a new 50 million dollar ratable it does not produce revenue for the town. Attorney Doyle stated no. The tax rate would go down. He used two (2) planning board members as an example. He stated if they come into the Township with a new ratable then everyone of their taxes, because they were already here, would be slightly less because the take rate would be different. He indicated the amount of money raised is going to be exactly the same but the members would get a \$10.00 decrease etc...and the two (2) members would be paying that additional amount. He indicated the dollars are not changed by the ratables you have the rate is changed. So the 19,000 properties that were assessed before are paying a different amount because more ratables come in.

Attorney Doyle asked Mr. Costello if ratable gain or loss is irrelevant. Mr. Costello stated no it is not irrelevant it will affect the tax rate, which everyone pay's. Board Member Aponte asked what happens conversely. What if you lose a 50 million dollar ratable. Mr. Costello stated the tax rate goes up because you are dividing the number into a smaller number. Attorney Doyle then advised he was reading onto the record a comment from the Egg Harbor Township Tax Assessor, Maryanne Lavner, and was then going to have Mr. Costello comment on it this was a new article dated December 4, 2012 post Sandy. Attorney Doyle read the comment onto the record. He asked Mr. Costello that this quote is consistent with what Mr. Costello was saying. Mr. Costello stated the budget that is produced by the governing body the spending is what it is, the revenue is what they are and the tax levy would be the same. He advised how that gets spread out is what the ratables would determine.

Attorney Doyle stated he would like to introduce this article into evidence. Special Board Solicitor Marcolongo stated Attorney Doyle has read it and it is in the record. Attorney Doyle stated he would like to place the whole article in. **May the record reflect:** this information was not provided by Attorney Doyle and was not marked into evidence.

Attorney Doyle stated last meeting there was discussion concerning the golf course and Mr. Costello was not sure if it was a component unit of the municipality. He stated he would like to show Mr. Costello the audit that his firm produced and asked him to refer to the 4<sup>th</sup> paragraph on page 24. Mr. Costello stated it indicates the MUA and the Golf Course are component units. Attorney Doyle stated referring to his firm's audit it says the Township is in a guarantor agreement. He asked if Mr. Costello is aware of this. Mr. Costello stated yes. He is vaguely familiar with it. Attorney Doyle stated and if the Township is required to make payment on this debt service the payment must be made within 120 days of notice and applied to the debt service reserve fund. Attorney Doyle asked if these means the golf course has a hard time the tax payers have to pay more for it. Mr. Costello stated that is what it sounds like but he does not have the documents to prove it. He stated this is what it sounds like.

Attorney Doyle stated there has been testimony previously and this says "as of December 31, 2014 the accumulated debt service payments made by the Township on behalf of the Golf Corporation was \$3,050,00.00". He asked Mr. Costello if he was aware of this. Mr. Costello stated no. Attorney Doyle asked Mr. Costello if he knows where the money comes from to pay the golf course bonds. Mr. Costello stated it would come from the municipal budget. Attorney Doyle asked what part. Mr. Costello stated it would be on sheet 27. Attorney Doyle stated it comes from the 2 cent. Mr. Costello stated open space. Attorney Doyle stated yes. He then asked if the open space money was not meant for purchasing and maintain.

Mr. Costello stated he had nothing to do with the open space ordinance and not aware of what it was designated for. Attorney Doyle stated the 2 cents, which is more than the effect of Seaview Harbor, comes out of the tax payer, correct. Mr. Costello stated yes it does. Attorney Doyle asked if the open space ordinance be removed or eliminated. Mr. Costello stated that is a legal question. He advised he is sure if governing body want to open the ordinance they could. He stated he was not sure if this was a voter question. Attorney Doyle stated it was. Mr. Costello stated if it was a voter question than the voters would have to overturn.

Attorney Doyle to the degree the way he understands it the restaurant is closing and you do not know whether there will be issues with the golf course. Board Member Aponte asked where is Attorney Doyle going with questions concerning the golf course. He does not see the relevancy with this application. Attorney Doyle stated the question is and throughout this process has been and cases have been read the effect on the tax payer and what can cause damage to them and whether under the statute it is significant injury. The suggestion here and what we have heard about the golf course instead of using possibly tax payer money for something more productive and including if the open space trust was by vote of the people at least put out there instead of fact stopping a golf course that evidently has had anticipated problems.

Board Member Aponte stated that sounds more like a public policy argument and he is not sure if it is relevant as to what we are discussing. Attorney Doyle stated he appreciates this. Special Board Solicitor Marcolongo stated and it goes to what Judge Perskie was saying. When we are talking about the deannexation process we should not be getting into what "if's", revenues possibly coming in or what "if's" of expenditures going out. He stated you could spend a thousand hours going through the budget saying could you not have spent a dollar less here or a dollar less here. Attorney Doyle stated he has a feeling he is going to hear a lot about his old friend Judge Perskie about what can and cannot be done. What he said is what he said. This is a different case and a different time and he will only harken back not to Judge Perskie but to Councilor Marcolongo who said take it all in, give it what weight you expect and he is not trying to go too far.

Board Member Aponte stated with respect to the golf course some people would say it is a great amenity and some would say I do not golf and I think it stinks. He advised he believes we should move on from this topic because he does not feel it is relevant. Mr. Costello stated whatever the agreements are they will stay in place.

Attorney Doyle stated last month we had questions about tax abatement policy, the audit, accelerated tax sales and tonight again the MUA, and the golf course. He stated on several occasions Mr. Costello indicated he was not aware enough of those subjects to discuss because you were not the auditor. Mr. Costello stated this is correct. He advised he has not looked into the golf course. Attorney Doyle stated or any of the other items. Mr. Costello stated with the accelerated tax sale he did provide information and the only question with respect to the accelerated tax sale was the reference Attorney Doyle made to 99% being a good collection and he said it was on its own, but the amount is collected because of the accelerated sale. Mr. Costello stated whether an outside buyer pays it or the taxpayer does it is still a collection.

Attorney Doyle stated the question overall is when we opened up Special Board Solicitor Marcolongo stated "our witness tonight will be Leon Costello who is the Township Auditor", he misspoke. Mr. Costello stated I am in the firm that does the audit. Attorney Doyle stated when he asked Mr. Costello if this was a product of Ford Scott and you answered yah, I did it. So was it your product, the firms

product or in effect both of you. Mr. Costello stated he did the report. The audit is with the firm and the partner who did the audit is Ken Moore. He indicated this has been previously said. Attorney Doyle asked whom is the auditor for Longport. Mr. Costello advised Mike Garcia of our firm. Attorney Doyle stated so when you noted we also do Longport that's firm. Mr. Costello stated correct. Attorney Doyle asked if the firm is also the auditor for the Board of Education in Egg Harbor Township. Mr. Costello stated yes. Attorney Doyle asked whom is the auditor. Mr. Costello stated he was the auditor for the first time last year and he is also this years.

Attorney Doyle explained Mr. Costello provided testimony and a report in another deannexation matter where an area of Upper Township known as Strathmere wanted to secede. Mr. Costello stated correct. Attorney Doyle then referred to a document submitted at that time marked P1, dated April 30, 2008. He asked Mr. Costello if this was his report. Mr. Costello stated yes. Attorney Doyle asked Mr. Costello if he could read in the Upper report what is said in the prepared by. Mr. Costello read this information onto the record "Prepared by Leon P. Costello, CPA, RMA, Ford Scott and Associates". Attorney Doyle asked he could now read it from tonight's report. Mr. Costello stated "Prepared by Leon P. Costello, CPA, RMA". Attorney Doyle asked why was Ford Scott omitted. Mr. Costello stated he has no idea.

Attorney Doyle asked Mr. Costello on the front page to read the title for Upper. Mr. Costello stated "Township of Upper Financial Impact with Compliance with the Matter of Deannexation of Strathmere". Attorney Doyle asked he read the same from his report tonight. Mr. Costello stated "Seaview Harbor vs. Egg Harbor Township Financial Impact Report". Attorney Doyle asked why was the report put in neutral terms in Upper and adversarial terms with the "vs" as it were a law case or prize fight. Mr. Costello stated he cannot tell you why it is different in one and then the other. He stated there was no intent for either one.

Attorney Doyle asked Mr. Costello if his firm been employed in any other deannexation matter besides Strathmere and Upper and Seaview Harbor and Egg Harbor Township. Mr. Costello stated we are involved with one currently that Ken Moore is doing. Attorney Doyle stated the same Ken Moore that is the auditor for this Township. Mr. Costello stated yes. Attorney Doyle asked which case is it and what municipality. Mr. Costello stated he does not know. He is not involved. Attorney Doyle asked who is he representing the petitioners or the municipality. Mr. Costello stated he believes the petitioners.

Attorney Doyle stated so in other words Mr. Moore is representing petitioners who that that municipality, which is by the way Berkley Township, Ocean County, who are in the same footstep and shoes of Seaview Harbor, of South Seaside Park which is the area of Berkley Township seeking to. Mr. Costello stated if you say so. Attorney Doyle asked if this was news to Mr. Costello. Mr. Costello stated he knows the case but he has not done anything with it. He advised he is not aware of the names of the towns.

Special Board Solicitor Marcolongo stated he would like a proffer as to the relevance of this deannexation here. Attorney Doyle stated the most important evidence in some of the cases is the financial testimony. He stated here the financial testimony is being produced by Ford Scott Associates through their partner Leon Costello. This same firm Ford Scott Associates through another partner is representing petitioners. Petitioners in a municipality in terms of the proffer of proof would be that has approximately 5 billion dollars in ratables and a section of that town is seeking to leave and by their leaving would take their 539 million dollars or 10.58% out of the town.

Attorney Doyle stated it seems to him to be very relevant to determine on one side 2% is what it is to some degree and inferences can be made based upon the testimony of Ford Scott representatives is a problem. At the same time Ford Scott by reason of having to maintain the petitioners burden that it would not do significant injury to the Township that they wish to secede that 10.58% is not a problem. He indicated that kind of inconsistency would be as much as if a Planner or a Traffic Engineer came before this Board one day and said on the same fact that is a traffic problem, that is a drainage problem and the next case with a different client he says something 180 degrees.

Attorney Doyle stated here it is Mr. Moore in one place and Mr. Costello in another it is irrelevant because they are both Ford Scoot. He advised for that reason it is germane and it should be spread across the record. Attorney Doyle than added we have heard I am not the auditor, I did not have those budget discussions, I am not that familiar with the budget, and that is all about Mr. Moore. Attorney Doyle stated last meeting he suggested why not cut to the chase and have Mr. Moore here. Attorney Doyle stated he has to believe, and correct him if he is wrong, even though he is auditor and budget officer and he has a great familiarity with this Town. He is purposely being hidden away from being the person testifying because if he were testifying the direct question he wants to ask is how 2.4% a problem here but when you are on the other side of the fence representing petitioners 10.58% does not do significant injury.

Special Board Solicitor Marcolongo stated he very well may change his adjectives depending upon which side he is on. But the bottom line of what this Board needs to know is what are the numbers and they will make a decision on whether it is significant or insignificant. The Township Committee will make a decision if it is significant or insignificant and it does not matter what adjective he puts in front of the numbers. Give us the numbers and that is what the Board needs to know. He further noted as to the budget element we go back to what Judge Perskie says is revenue coming in and expenses going out is irrelevant to the issue of the deannexation.

Attorney Doyle stated in each of the cases West Point, Ryan, Russel, Avalon, the vacant lot case in Gloucester County talked about the ratable base so to say it is irrelevant is dead, legally, and factually wrong. He stated when you have a firm that you will derive from their testimony an inference or conclusion that the loss of 2.4% is a problem, yet you have the same firm, carry the stronger burden that the petitions have to carry under the statute of no significant injury to the municipality that 10.58% is not a problem he believes it calls into question the entire testimony that was produced by Ford Scott and raises the question as to why Mr. Moore was not here.

Special Board Planner Wisner stated this Board should know he represents the Planning Board in Berkley and there has been no financial reports submitted so the conversation about 10+% is arguing facts that are not even into evidence. He indicated he does not know where Attorney Doyle is coming up with that number and he thinks it gives the Board a false sense of what is going on in Berkley. Attorney Doyle stated the numbers he has to place before the Board do not have to be testified to by Mr. Moore. He indicated he will place into evidence the exchange that requested via OPRA that he had with the Assessor, the requirement that you have to sign about how much is in the books from the area. He will place into evidence the Ocean County ratable abstract similar to what Mr. Costello put in for Atlantic County and it is a simple matter of arithmetic coming out to 10.58%. He stated the fact that Mr. Moore has not testified yet and he believes he is supposed to testify at the next meeting or the one after that. Attorney Doyle stated he is not involved in that litigation as is Mr. Costello's firm and Mr. Wisner's firm, although on different sides, he does know the facts. Attorney Doyle stated he knows the objective facts that are found in the petition signed by Mr. Moore that portion.

Board Member Aponte stated he does not understand why were are talking about Berkley while were talking about Egg Harbor Township. Attorney Doyle stated we are not talking about Berkley we are talking about the credibility of Ford Scott being in one place with one argument and being in another place another argument and he is talking about the inability of this Board to call Mr. Moore.

Board Member Aponte asked when any attorney, any planner, and any accountant has a plethora of clients they can take one position or another position on anything. He used as an example a big company or any company, one side or one person has a book of business and another one has another book of business. He stated he does not see this as conflict and he does not see where the conflict lies. Attorney Doyle stated he does not want to speak to ethics. Board Member Aponte stated he thinks this is what he is saying. Chairman Garth stated this is what it sounds like. Attorney Doyle stated there is a difference between ethics and what you can and cannot do. He stated he knows he and Special Board Solicitor Marcolongo practice in a profession where you could not have those kind of silo's in a firm because you have certain limitations. But as a matter of credibility and practice there are lawyers for instance that do plaintiffs work and they will never touch an insurance case. Lawyers whom do defense work and the carriers will not let you do plaintiffs work.

Attorney Doyle stated generally in the professions there is separation. He indicated you have seen lawyers come before this Board as applicants and you have seen Mr. Gasioroski whom comes as almost solely an objector's attorney. He indicated it is not so much the attorney that comes but the witnesses who come and the reports that are produced. He indicated if you have two (2) separate sets facts and in one the conclusion is red- stop and the other is green-go. He thinks it raises a credibility issue as to what is a significant injury and he thinks it is something the Board needs to take into consideration.

Special Board Solicitor Marcolongo stated the point has been made that Mr. Moore is working on another matter on the petitioner's side. Board Member Aponte stated as far as he is concerned he cares about what this report says Seaview Harbor, the numbers, and what does it do to the residents if they stay or go. He indicated he does not care what happens in Berkley it is irrelevant to him. He asked if we could move on. Attorney Doyle stated he would like to place into evidence a portion of the petition that was signed by Mr. Moore, the Ocean County ratable base abstract so this 10.58%.

Board Member Aponte stated we are not Ocean County were Atlantic County. He stated he does not care Ocean County. Township Committeewoman Pfrommer stated we do not care about this. She stated we care about Seaview Harbor and Egg Harbor Township. Attorney Doyle stated when you say based upon the testimony we have. We conclude and infer from the testimony that 2.28% is going to do significant injury to the Township and he has a solid right, to say, how can you say that when the people who gave you the facts that you are drawing that inference and conclusion from said somewhere else four times that amount said it was o.k. Freeholder Carman stated we have not made any conclusions.

Township Committeewoman Pfrommer stated every number he has provided he has the back-up for and it affects us in Atlantic County and Egg Harbor Township. She stated that is what he is doing. He is testifying to the numbers on the record and anyone of us in this room can obtain these numbers. She stated he put them together and presented them to the Town and that is what he is doing. She indicated it has nothing to do with that. She stated it is just like Attorney Doyle's old case and Special Board Solicitor Marcolongo's old case it doesn't affect us.

Board Member Aponte stated he would take more relevance in an old case that was taken all the way and finalized and then you provide comparison that Ford Scott said "X" and that was already done, but something that is continually ongoing he does not think is relevant. He stated he would strongly suggest we stick to Egg Harbor Township and all parts of Egg Harbor Township including Seaview Harbor their numbers and how it effects not only the residents of Seaview Harbor but the rest of the residents.

Attorney Doyle stated Special Board Solicitor Marcolongo quoted from a case and they talked about percentages of the ratable base and made certain conclusions to the degree and he would make the argument that Mr. Moore would probably make a very good witness and say 10.58% for all of the reasons is not doing significant injury. But then he would say if you brought Mr. Moore on and it is a part of his argument that maybe he was purposely not put on because he would ask him the question Mr. Moore if 10.58% is not do significant injury and 2.4% do significant injury that is inconsistent.

Board Member Aponte stated he thinks Attorney Doyle yielded Mr. Moore for more legal theatrics then talking about the numbers the Board needs to hear. Attorney Doyle stated it is not theatrics. Board Member Aponte stated he believes that is what it seems like to him and he's throwing veiled ethics. Attorney Doyle stated no. Board Member Aponte stated he is telling Attorney Doyle this is what he is understanding. Attorney Doyle stated Board Member Aponte is wrong. Special Board Solicitor Marcolongo stated the Board has evidence to Attorney Doyle at this point that this line of questioning is not relevant to them and they suggest he just move on to the next line of questioning.

Attorney Doyle stated he would like to place into evidence those matters that are public records previously requested. Special Board Solicitor Marcolongo stated Attorney Doyle's request to place this information into the record has been noted for the record and he would recommend the Board not accept at this point and move onto the next line of questioning. Board Member Aponte stated he concurs. Attorney Doyle stated he appreciates but it is unfortunate that it is judge and jury but we will try to continue with what we have in front of us.

Attorney Doyle stated at the last meeting we placed in a piece of evidence dealing with ambulance revenues. He advised Freeholder Carman pointed out that it was only for a single year and consistent with how Mr. Costello had testified maybe seeing a longer period. Attorney Doyle stated he may have provided two (2) snap shots of 2010 and 2014. Attorney Doyle stated Freeholder Carman had asked two (2) valid questions. One is what happened in the in between years and what about the capital budget. He asked Mr. Costello if he could take him through the numbers.

Attorney Doyle stated as you can see there are eleven sheets and five sheets are the anticipated revenue taken out of the last five (5) budgets and each case followed by the appropriations for that year. He indicated the 11<sup>th</sup> sheet is the capital. He indicated with this as an introduction. He asked Mr. Costello what was the realized cash in 2010 for ambulance fees. Mr. Costello stated \$881,000.00. Attorney Doyle stated and as Mr. Costello explained this goes into the revenue bucket. Mr. Costello stated yes. Attorney Doyle stated ambulance services is the expenditure side which has two (2) components which is salary and wages and other expenses and quickly totaling these it comes out to \$526,000.00. Mr. Costello stated those number would equal what Attorney Doyle stated, however, he is missing pension and health insurance.

Attorney Doyle stated this is a good point. He further noted based upon his recollection the ambulance director testified that they were all part time and therefore did not receive health care. He stated and as part time he does not believe they qualify for pensions. Mr. Costello stated it depends upon how

much they make. Attorney Doyle stated as the ambulance director he testified as to what they received. He indicated it would seem on face of it without that portion \$881,000.00 came in and \$526,000.00 went out. Mr. Costello stated o.k. Attorney Doyle stated again, in 2011 ambulance fees were \$958,000.00 and salary and wages and other expenses were \$550,000.00. Attorney Doyle stated o.k. in terms of when we go through these in 2012 it was \$1,080,000.00 and total expenses were \$496,000.00. He stated he does not want to call it a profit but this is one of the areas that a municipality has available to it, on its own, to make money and generate money for a surplus.

Mr. Costello stated yeah, however, he wants to go back to the first page. He advised they anticipated \$976,000.00 and they collected \$881,000.00 so they lost money. So there was a negative to their fund balance. Attorney Doyle asked does this not tell you as an auditor they put this amount in because they got that amount the preceding year. Mr. Costello stated yes. Attorney Doyle stated and they can anticipated up to that. Mr. Costello stated yes they are allow up to that or create an ordinance to set a new rate schedule. Attorney Doyle stated the ambulance director testified they did put in a new rate schedule so once again the municipality has the ability to raise revenue. Mr. Costello stated to a tolerance level, whatever that is. He indicated though they lost \$100,000.00 that year.

Attorney Doyle stated you say they lost \$100,000.00. Mr. Costello stated they indicated they were going to receive \$958,000.00 they got \$881,000.00. Attorney Doyle stated versus what they would have expected but compared to expenditures that still ended up in the black. Mr. Costello stated the budget is built year after year after year and the snap shot says in the 2010 budget to offset what the tax payers are going to pay we think we are going to receive \$976,834.00 in revenue from this source. We only received \$881,000.00. We did not make budget on that one so it was a negative to the fund balance. All the expenses were already there and stayed there. He indicated Attorney Doyle is trying to make a case that is the ambulance a profit center and if it is so be it. But it is also dependent in the budget now to be a profit center forever. Just like the \$247,000.00 must be in each budget or the tax payers are going to pay the difference.

Attorney Doyle referred to the 2011 Sheet 4 advising they could not anticipate more than the \$881,000.00 they received the year before but this year they received \$958,000.00 so that is some \$75 to \$80,000.00. Mr. Costello stated to the good. Attorney Doyle stated for the following year they did the same thing. Anticipated what they could which was the \$958,000.00 and they realized \$1,080,000.00. Mr. Costello stated yes and with all that being said their fund balance dropped from December 31, 2013 of \$555,000.00 down to \$325,000.00 in 2014. He indicated all these factors build. He advised Mr. Doyle is taking a piece out to make it look like this is a windfall but the whole budget has to be taken into account. He stated this one component may have had an increase for a couple of years and a decrease for a couple of years but in the end what it produced in fund balance is down to \$325,000.00.

Mr. Costello stated it has not been a windfall. Attorney Doyle stated Mr. Costello noted \$325,000.00, if Seaview Harbor were to have left this would not have changed what he just stated. Attorney Doyle advised the \$325,000.00 you do not always know if it is going to be a penny more. Mr. Costello stated no. He advised he never said it would change. Attorney Doyle stated he wanted to make this clear so that the fund balance or the potential danger size from it has nothing to do whether Seaview Harbor stays or goes. Mr. Costello stated no. He advised Attorney Doyle's point was they have an extra \$555,000.00 laying around they can afford to lose the \$494,000.00 that is Seaview Harbor.

Attorney Doyle the last sheet is a capital program and shows what is expected over the next several years. He stated the 6<sup>th</sup> item down is ambulance and it shows every other year in expenditure \$180,000.00 to \$190,000.00. Mr. Costello stated yes. Attorney Doyle stated looking at this sheet in its entirety the ability of Egg Harbor Township to fulfill its capital projections and when needed bonds for them as reflected on the most recent budget and the appropriate sheet, which he believes this is. Mr. Costello state yes. Attorney Doyle stated is not effected by Seaview Harbor staying or going. Mr. Costello stated we made that point before. The bonding capacity would not be that adversely impacted. Attorney Doyle stated he knows we made that point but the specific capital program was not in front of him. Mr. Costello stated he will call this a wish list, or not a wish list but a projection. He indicated not until an ordinance is done are any of these things valid. Attorney Doyle stated meaning it could be less than this. Mr. Costello stated meaning it could be nothing or twice this. He stated not until the ordinance is done does any of these capital become effective. Attorney Doyle stated obviously if it were nothing the non-effect of us leaving would be even less material. Mr. Costello stated yes.

Attorney Doyle stated he has nothing further.

Special Board Planner Wisner asked for his own edification on the Standard and Poor's report page 3 the second paragraph under outlook which was previously discussed there was a conversation about the available fund balance were to decrease you said that happen. Mr. Costello stated it did. Special board Planner Wisner stated the first clause above this section discusses if the budgetary performance were to deteriorate significantly. He asked if Mr. Costello could provide an example of what they are talking about Mr. Costello stated first this is there statement not his but what they are speaking of is are you budgeting too close to your revenue assumptions, spending too close to amount appropriated, having tax appeals and not getting all your revenues in. That is budgetary performance. He indicated the budget did not perform in 2014 up to the levels that they were expecting.

Special Board Planner Wisner stated so he understands there is a certain amount of line items and each one has a dollar value pegged to it and if those dollar values feel short that would be a deterioration. Mr. Costello stated they look at it as a whole picture not any single item. They look at the facet of what did the town do performance wise. They lost from \$555,000.00 down to \$325,000.00 in fund balance and they are using significantly or if it were to decrease so they stated an amount.

Special Board Planner Wisner stated there has been a lot in the newspaper lately about legislation that would impact Atlantic City and the taxes that they pay including the County Tax. He stated as the Board knows there have been a bunch of different number floating about how much of the County tax Atlantic City were to have to pay. Regardless of what those numbers end up being if that legislation passes what would be the impact tax payers of Egg Harbor Township. Mr. Costello stated there are two (2) massive variables with this.

Attorney Doyle asked if he could have a moment. He advised he would be interested in the answer in an academic forum. But he is objecting to the question. Attorney Doyle stated there are a lot of interesting things going on with respect to the Pilot, the legislation, Atlantic City and all of that but to him if the answer is irrelevant to whether Seaview Harbor is in or out. He stated for instance we have not had a lot of questions about the County because Mr. Ryan and Mr. Costello stated it is just a swap. It is irrelevant if you stay or go. He indicated if there is a difference if we stay or go and Mr. Costello could tell you that. He stated preliminarily does it matter whether Egg Harbor Township stays.

Mr. Costello stated the question is not whether Seaview Harbor leaves or does not leave. He stated lest say Seaview Harbor does leave and the remaining tax payers in Egg Harbor Township would be impacted by what the pilot program does to all the tax payers that remain here and of course the ones that are over in Seaview Harbor. He stated the impact widespread but the way the County tax is levied the County tax can now be raised to 160 million and it gets divided into 26 municipalities based on their equalized value after the equalization table is developed in March. That equalization table Atlantic City fell from 11 billion to 7 billion so they lost 4 billion in ratables. He indicated this means Atlantic City became a smaller piece of the County and everyone else became a bigger piece of the County. He stated everyone will get a tax increase on County Tax whether Seaview Harbor is here or not.

Mr. Costello stated all of Egg Harbor Township would get a tax increase if the pilot does or does not go through there are two (2) massive variables in the pilot. One is the battle as to how much County gets of this thing which is undetermined and the second is the County does not want the ratables reduced out of the equalization for the Casinos. He stated as you know in a pilot they are not in the ratable base. He indicated they are assessed differently. He advised if they are taken out it is another 4 billion dollars that comes out of the ratable base that means 4 billion dollar less in Atlantic City and it is spread to everyone else.

Mr. Costello stated the next year depending upon what happens there could be another sizable increase to both parties. Whether Seaview is here or there on the County tax. He stated he thinks that's where you get too, what is going to be the impact on the tax payers. He advised the tax payers will be paying taxes no matter where they are at but all the ones in Egg Harbor Township could be significantly impacted by where this pilot goes.

Board Member Aponte if you 100 million dollar in ratables here in Egg Harbor Township and 100 million in Seaview Harbor. He stated proportionately if they both paid a \$1.00 is it both the same number. He asked will they pay more or less on the County tax because Longport is smaller. Mr. Costello stated under what he presented they would pay the same in County taxes. The question is what would happen if the pilot goes through. He stated the Township is equalized at 4.15 billion. He stated the County total is close to 36 billion so Egg Harbor Township is a little over 10% of the 160 million. He stated if this pilot goes into play and the ratable falls out and you are more than 10% you're going to get more of the County Tax. He stated the County taxes are not going to go down and you cannot avoid.

Mr. Costello stated so will Longport's resident see a County tax increase depending upon the pilot. Board Member Aponte stated so it is the same \$1.00 so why are we talking about this. Mr. Costello stated the reason you talk about it is how much it will affect Egg Harbor Township tax payers no matter who they are when it goes into effect now. He stated you say a 5.9 cent increase now, as shown on Sheet 8, he indicated the County tax could hypothetically go up 10 cents or if the pilot is in place and it did happen it could be a 15.9 cent increase to all Egg Harbor Township tax payers. He indicated he thinks what you have to look at is the effect of all tax payers going forward and we do not know. He stated that is what is so volatile.

Freeholder Carman stated he agrees with the explanation, but also agrees with Attorney Doyle the question is irrelevant. Attorney Doyle stated the effect could be significant on all the Egg Harbor Township tax payers and he guesses it would be significant everybody in Atlantic County who's ratio is where Egg Harbor Township's is. Mr. Costello stated all the ratio's it would not make any difference. Mr. Costello stated the County tax in 2014 was \$17,435,000.00 in 2015 it was \$18,800,000.00, which was a 1.4 million dollar increase in the County tax. He advised that increase divided by \$400,000.00 per penny

is a 4+ cent increase and is significant and they did nothing to get the 1.4 million other than they kept their value and Atlantic City lost their value and they got more of the tax. Board Member Aponte stated he does not want to continue talking about hypotheticals.

Attorney Doyle stated Mr. Costello indicated the effect upon Egg Harbor Township's tax payer could be significant and you mentioned 15.9 cent increase. Mr. Costello stated he just made-up a number it has no bearing on reality. He stated it was hypothetical. He stated they are two (2) variables that are unsettled.

Attorney Doyle stated one question. He asked Mr. Costello in the two (2) nights of testimony is meant to answer what is or what is not significant. Mr. Costello stated these are all just facts. Attorney Doyle stated he understood.

Attorney Doyle stated he wants to make it crystal clear there is nothing in the argument tonight to impute Ford Scott or Mr. Costello. He advised he did not know the firm but there is two (2) things he like to mention. Advised when he sat on the local finance board Mr. Scott had also sat. However, we impressed each other that neither can recall the other. Attorney Doyle stated when he took this assignment he called someone he knew who indicated he knew someone that would make a good witness but not sure if he can do it. Attorney Doyle stated that fellow was Mr. Costello, who got back to him advising he could not do it because he worked for Egg Harbor Township.

Attorney Doyle stated he received a second referral for a gentleman he did not know, had no connection with, nor did he realize he was connected to Ford Scott and he cannot remember if it was Mr. Scott or Mr. Moore but he said no he does not and that was Mr. Ryan. He stated when Mr. Scott and Mr. Moore state Mr. Costello is a conflict that is a conflict. That is where someone cannot testify. He stated questions of credibility in terms of having different opinions based upon who the client is; is an appropriate area. The words significant and injury in the statute usually relate to ratables because ratables relate to taxes and that relates to damage whether a decision is granted and in our case \$126.00 to the average home owner or if the petition is denied an \$18,000.00 loss to his average client.

Attorney Doyle stated those questions of significance and numbers he thinks when they get transposed in a way two (2) cases are appropriate and are on the record and as Special Solicitor Marcolongo mentioned and he does not want to prolong it and he does not want anyone to think he question in anyway your firm. Attorney Doyle stated he thought the second point was appropriate in terms of whether Mr. Moore should be called on for the questions Mr. Costello did not feel up too not being the auditor or the budget officer. Attorney Doyle stated he must reexamine whether there is anything of such worthiness that he would ask the Board to have Mr. Moore testify. He advised his tendency is to think not but he wants to think about this separate.

Attorney Doyle stated the second thing on procedure. He stated he is aware there is a meeting on November 16<sup>th</sup>, which is the Board's regular meeting he asked if there will be other matters. Board Secretary Wilbert advised the meeting is completely the Deannexation. He stated if the Board has no further witnesses then it is subject to either Chief Culmone, which he must have more conversation with Special Board Solicitor Marcolongo about that or Mr. Moore which he tends to doubt unless there is a compelling reason that needs his attention and he does not want to deprive his clients of that opportunity.

Attorney Doyle stated he then understands we will finally have the citizens. The people who are not called by the Board, which raises questions that he will have to have with Special Board Solicitor Marcolongo. He indicated he followed what was done in Upper and sometimes people had two (2) or three (3) shots at the microphone. Attorney Doyle stated he knows he has previously said in this case whether we can call; whether people who are citizens and tax payers of this municipality who have sat in the audience. Whether they testified and thought of something new, whether their testimony was put into question and they wish to rebut their creditability being questioned, usually by Mr. Miller, would they have a right to testify.

Attorney Doyle continued by saying or whether people who live in Seaview Harbor and never testified have a right to testify. He stated his recollection from reading record, at least in the last case they didn't. However, he must speak with Special Board Solicitor Marcolongo further to better understand who, when and what about the first two (2) issues. He stated in any event he is sure there will be citizens who come out from Egg Harbor Township be it the mainland or Seaview Harbor and we can set some ground rules, not tonight, but for Special Board Solicitor Marcolongo and himself to discuss.

Attorney Doyle stated once we get past November 16<sup>th</sup> there is possibly a November 30<sup>th</sup> meeting. Board Secretary Wilbert advised this has yet to be determined. She does know one (1) member will not be in attendance and another is ill. She advised the Board may consider a motion to set a November 30<sup>th</sup> meeting tonight if they are incline to or they may wait until November 16<sup>th</sup>. She advised she is concerned setting a meeting now when she knows there will only be five (5) members available.

Special Board Solicitor Marcolongo stated he has a concerned that we have the public portion on November 16<sup>th</sup> and we finish the public portion the next witness he anticipates would be Special Board Planner Wisner and he would not believe he would be able to complete an entire report between the 16<sup>th</sup> of November and the 30<sup>th</sup> of November. He advised it does not seem practical. Special Board Planner Wisner stated certainly not in the amount of time to get it to everyone in advance. Special Board Solicitor Marcolongo stated looking into December the one (1) scheduled meeting is the 21<sup>st</sup> and that would be the first available date where Special Board Planner Wisner would be ready.

Special Board Solicitor Marcolongo stated the other issue is rather than himself and Attorney Doyle discussing the ground rules for November 16<sup>th</sup>. He believes he needs feedback from the Board on that. Special Board Solicitor Marcolongo stated it would be his opinion that any member of Seaview Harbor who signed the deannexation petition would not be permitted to testify in the public portion because their presentation has already come before the board and they had the opportunity to present during the petitioners affirmative case.

Special Board Solicitor Marcolongo stated any member of Seaview Harbor who did not sign the petition he certainly believes would be appropriate to hear from them whether they are in favor of deannexation or not at this point. He advised some people's opinions may have changed in the last 18 months. He indicated in addition he would anticipate any other member of Egg Harbor Township proper who wished testify would be more than appropriate for them to come in and testify but that we only hear from them one (1) time. He explained if they want to make a presentation to us tell us what you have to say but once you sit down you are done. He indicated this would be his feelings on going forward.

Township Committeewoman Pfrommer asked if this is being brought up to the public what type of notification do we have to do. Board Secretary Wilbert stated this is an ongoing case and there has

been meeting notices in the paper, on our web site. She indicated if there is something specific the Board would like her to do such as notification or an article. Board Member Aponte asked what about residents from other towns. Special Board Planner Wiser stated he would believe residents from Longport would be appropriate. Special Board Solicitor Marcolongo stated if someone can show they are "an interested party" then it is appropriate for them to speak with the Board. He indicated he would have to agree if a resident of Longport wanted to come in he could see them as being an interested party. He can imagine a business owner who does not live in Egg Harbor Township but has a business here. He can see this as an interested party. Board Member Aponte stated it appears they would have to have some nexus. Special Board Solicitor Marcolongo stated correct.

Attorney Doyle stated there is a definition in the municipal land use law, but does not cover this proceeding, because this is not an application for development, but it defines an interested party in largely the same way as defined by Special Board Solicitor Marcolongo, as some nexus. He then added to draw on Special Board Solicitor Marcolongo's earlier comments the petition is to be signed by 60% of registered voters but it effects people who are not voters. However, the idea of people who had spoken and want a second say at the mike, people who have spoken and whose testimony was subject to a specific and direct response. To deprive them the right of confrontation because they did not know what was going to be said about them and their testimony and then most egregious of all, if someone sat here and maybe they had nothing to add, but something struck them that they are deprived as their right as a citizen in Egg Harbor Township to speak. He stated the petition does not take on; is not a body it is people. The petition becomes the petition but Mr. and Mrs. Smith who live at 34 Seaview say, you know what something struck me that has not been said, as he recalls, correct him if he is wrong, people from Strathmere who never spoke were allowed to speak during the citizen portion.

Special Board Solicitor Marcolongo stated he does not recall this but he cannot disagree off the top of his head. He indicated for the second category that he just spoke about and the testimony may have been impeached per say during other testimony. He indicated certainly by everyone who testified was crossed examined by Attorney Doyle and he had the ability to rehabilitate that testimony and on a lot of occasions that occurred. So he believes that person has already been protected by Attorney Doyle's efforts.

Board Member Rosenberg asked two (2) questions for the record. He asked Mr. Miller is a resident of Egg Harbor Township will he be afforded a second crack at the mike. Attorney Doyle stated under the Marcolongo rules as he understands them, no. He was here for eight nights and a lengthy cross examination but he should not accorded any different privilege or restriction than Mr. and Mrs. Jones are. Board Member Rosenberg asked that the Mayor has been precluded of course, but would the Mayor be eligible to speak as a resident. Special Board Solicitor Marcolongo stated he had not signed the petition and he has not spoken yet. Board Member Aponte stated along the way we have said no second bites of the apple. He stated he has said it and believes they have heard him save it. He advised it has been 18 months and we all have a lot of facts, things to go over and read. We would like to hear from the residents. But prolonging this does not help anyone.

Attorney Doyle stated he does not want to prolong either and he agrees he would have to make a strong case for a second bite of the apple but he does not believe there should be any lack of opportunity for someone, where ever they may live, to have first bite and hopefully everyone taking that first bite will be limited to subject matter and everyone taking the first bite will be limited to subject matter, time, and the case law from the Strathmere is to be continued. He does not have the right to cross examine citizen witnesses. He indicated he would, as was said there, would ask the Board or Special Board

Solicitor Marcolongo to have any person that is a citizen whether they are for or against deannexation be asked at least a couple of questions such as where do they live, what is their interest in the matter, if they are for or against, and why and how do they think granting or denying petition would affect them as a citizen of Egg Harbor Township.

Chairman Garth asked how many people in Seaview Harbor that is not their primary residence. Attorney Doyle his best guess is the questionnaire and what he has been told and he wants to say the number is somehow 57% sticks in his mind so more than half but not as many as two-thirds. Chairman Garth stated so going down the middle 50% of the people in Seaview Harbor maintain a house in Egg Harbor Township don't live there. They live in Pennsylvania and this is their summer house and they come down for the summer and the working person will go back and forth every weekend. Would they be allowed to speak.

Attorney Doyle stated he would believe so because the Statute is interesting. The petition has to be signed by 60% of the voters and by law you cannot vote unless that is your domicile, which means you live there as your permanent home, however, the second test of the Statute is would the denial of the petition cause economic or social injury to the wellbeing of the residents of the area. He continued by saying residents is a different word than voter. So his answer would be yes they could. Special Board Solicitor Marcolongo stated he would agree with Attorney Doyle on that, however, if they have signed the deannexation petition their voice has been heard, capably, through Attorney Doyle at this point so he would recommend that they not. He indicated their presentation has already been made.

Board Member Aponte stated it sounds almost as a flow chart, if you did this, if you did that it could boil down to maybe 30 to 40 people. Special Board Solicitor Marcolongo stated it could be a 1,000 people or it could be 1. He stated he is not sure of what will happen. Attorney Doyle stated certainly nothing should preclude a person from Egg Harbor Township to testify and the Board will have to make the distinction of a voter, what if they are a primary resident and not registered to vote, or are you a resident and you vote elsewhere or a business owner. Attorney Doyle stated you could have a party and no one shows up and all these questions are irrelevant. Board Member Rosenberg asked if the statement is without exception the one that nothing should preclude a resident of Egg Harbor Township from. Attorney Doyle stated the Board should defer to their own council but he would like the opportunity to agree with him.

Attorney Doyle stated again, he would say any interested person that can show a legitimate nexus toward these proceedings. That they have some sort of interest if they are a property owner within Egg Harbor Township that makes sense, if they are a business owner in Egg Harbor Township that makes sense. Board Member Aponte suggested if they are a renter, does not matter, they still live here. Special Board Solicitor Marcolongo stated correct, if you are a resident he has no problem with that. He stated our whole goal has been to hear the voices. He indicated we have heard the petitioner's voices and presentation and why he believes anyone who signed it has been heard.

Board Member Aponte suggested Special Board Solicitor Marcolongo and Attorney Doyle come up with the names. Attorney Doyle stated it is actual categories. Board Member Aponte stated fine categories. He stated he would be hard pressed to tell anyone who takes their time to come up that is from Egg Harbor Township to come speak and tell them they cannot speak. Special Board Solicitor Marcolongo stated at this time you may want to place a time period on any member of the public speaking. Board Member Aponte stated he hears what Special Board Solicitor Marcolongo is saying but he also read plenty of articles and find it distasteful when someone places an egg timer on that and he frowns upon

it. He stated if say generally five (5) minutes and they go over they go over. He stated he has a problem doing that. Township Committeewoman Pfrommer stated she thinks when it is repetitive there is where. Board Member Aponte stated when they become repetitive and we are not going onto another topic the Chairperson has taken over. Township Committeewoman Pfrommer stated in fairness to anyone in Seaview Harbor that is not a voter it is their only chance to speak. You can only sign the petition if you are a voter, so the summer residents, those that come to town who are probably in Florida in the cold weather.

Special Board Solicitor Marcolongo stated if their name is on the petition and he will have the petition present, if their name is on it their voice has already been heard. Board Member Aponte stated, not wanting to put words in the Committeewoman's mouth, but he believes she is saying that person who lives in Seaview Harbor may be a little longer. Township Committeewoman Pfrommer stated the petition was filed for the residents of Seaview Harbor and the people who are not voters in Seaview Harbor don't have a say in the sense they did not sign the petition. We want to make sure if they need to say something we should hear it. Special Board Solicitor Marcolongo stated he would agree with that. Board Member Aponte stated if it is a little longer it is a little longer. Chairman Garth stated it is what it is. It has been 18 months now.

The Board advised Mr. Costello that he may leave.

**Motion Eykyn/Pfrommer to approve meeting schedule of November 16, 2015 and December 21, 2015, 5:00 p.m., prevailing time. VOTE 6 Yes:** Aponte, Carman, Eykyn, Garth, Pfrommer, Rosenberg

**Motion Eykyn/Aponte to carry public hearing to November 16, 2015, 5:00 p.m., prevailing time. VOTE 6 Yes:** Aponte, Carman, Eykyn, Garth, Pfrommer, Rosenberg

**MEMORIALIZATION OF RESOLUTION:**

<b>1.</b>	<b><u>SD 03-15</u></b>	<b>Minor Subdivision</b>
	<b>Bellevue Properties Group</b>	<b>401/7-11</b>
	<b>6550 Delilah Road, LLC</b>	<b>6550 Delilah Road</b>

**Motion Eykyn/Rosenberg to memorialize resolution granting requested checklist waivers, variance relief, and conditional minor subdivision approval. Vote 5 Yes:** Carman, Eykyn, Garth Pfrommer, Rosenberg. **1 Abstention:** Aponte

<b>2.</b>	<b><u>SP 07-15</u></b>	<b>Minor Site Plan</b>
	<b>Inglesia Pentecostal</b>	<b>1032/3</b>
		<b>101 Oak Avenue &amp; Doughty Road</b>

**Motion / to memorialize resolution granting requested design waivers, variance relief, and conditional minor site plan approval. Vote 5 Yes:** Carman, Eykyn, Garth, Pfrommer, Rosenberg. **1 Abstention:** Aponte

**SUMMARY MATTER(S):**

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

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

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

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

**Motion Rosenberg/Pfrommer to approve special planning board minutes of May 5, 2015. Vote 6 Yes:**  
Aponte, Carman, Eykyn, Garth, Pfrommer, Rosenberg

**Motion Aponte/Eykyn to adjourn at 9:00 P.M. VOTE 6 Yes:** Aponte, Carman, Eykyn, Garth, Pfrommer,  
Rosenberg

Respectfully submitted by,

Theresa Wilbert, Secretary