

**UPPER TOWNSHIP PLANNING BOARD  
MEETING MINUTES  
MARCH 19, 2009**

The regular meeting of the Upper Township Planning Board was held at the Township Hall, 2100 Tuckahoe Road, Petersburg, New Jersey at 6:00 p.m.

**CALL TO ORDER**

**SUNSHINE ANNOUNCEMENT**

**SALUTE TO THE FLAG**

**ROLL CALL**

Present: James Kelly, William Brown, Susan Ragan, Donald Kissling, Daniel Bready, James Schroder, Curtis Corson, Richard Palombo, Renee Scrocca.

Absent: Gary Riordan and Duane Terwilliger.

Also in attendance were Dean Marcolongo, Board Solicitor; Stuart Wisner, Professional Planner; Shelley Lea, Board Secretary.

**STRATHMERE DEANNEXATION**

Continuation of the hearing on the petition filed by the Citizens of Strathmere and Whale Beach to deannex a portion of Upper Township commonly known as Strathmere and Whale Beach from Upper Township and annex same to Sea Isle City, New Jersey.

The Board members set forth on the record that they have attended all the hearings on this matter or have listened to the tape or read the transcript of any meeting or portion of a meeting they had missed.

The Board was asked for their finding of fact.

MR. KELLY – Mary Darcy Bittner, Esquire, is representing the applicants, Citizens of Strathmere and Whale Beach. The application involves a petition filed to deannex a portion of Upper Township commonly known as Strathmere and Whale Beach and annex same to Sea Isle City. The Board retained the services of Stuart Wisner, Professional Planner. The Planning Board is to report back to the Township Committee. The Board is only to fact find and gather information on how deannexation would impact the Township. The Board shall consider the economic and social well being as not to cause significant injury to the well being of the municipality in which the land is located. The petition was filed and the Township Committee referred the matter to the Planning Board.

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The initial hearing on this matter was February 2, 2008 at the Upper Township Elementary School. In the following 13 months many residents and non-residents have

provided testimony concerning beach erosion, no local police, poor drainage, bus service, trash pick up, beach maintenance. He has listened and agrees with some of the concerns that were raised. The concerns that can be fixed must be addressed. Robert Schwartz, CPA and registered accountant, testified on behalf of the petitioners. He testified that 85 percent of his work is governmental. He concluded that there was a shift of taxes from the mainland to the beach resort of approximately \$2,000,000. He claims that if deannexation occurred the Township could redirect budgeted money to the mainland to provide relief. He stated there would be a positive long-term impact on school taxes since there is now a new school funding formula. The State would not agree to make any estimate on this matter. He stated the County tax would be a short-term negative effect to the mainland. He assumes that deannexation would benefit the Township by \$2,000,000 based on the 2007 and preliminary 2008 budget. He feels the average property owner with an assessed value of \$350,000 would have an increase of approximately \$700 in taxes. Ms. Bittner indicated they plan to address the fiscal impact with the Township Committee and did not believe it was a Planning Board issue. He believes this to be an economic element, one which the Board considers part of fact finding. Mr. Schwartz discussed how deannexation could be lessened by the Township allowing the merger with Corbin City. In a prior case involving Avalon Manor the Board was not concerning themselves with what areas they could re-coop some of the damage done by deannexation. Mr. Schwartz testified as to the percentage of the budget allocated to Strathmere remained flat at 4% while the budget increased. At the May 21<sup>st</sup> meeting Dr. Stewart Farrell testified that he began to monitor the beach in 1984 from Raritan Bay to the Delaware Bay. This developed into the Institute of Coastal Research Center at Richard Stockton College. Dr. Farrell provided a power point presentation showing how waves promote erosion. His presentation was made available on line. He spoke of the difficulty in preventing beach erosion. He supplied photos showing how the channel has changed over the years. He stated that the channel is a moving mass that goes wherever it wishes. He spoke about storm damage by nor'easters and how they could effect the location severely at point A and minimally just a block away. He demonstrated how the second channel cuts across the beach at Strathmere. This is the tidal pool, which appears daily along the coastline and prevents new sand from coming ashore. The flatness of the beach allows remaining sand to be removed during storms due to the incline. He testified that beach replenishment is required every 5 to 10 years. This is only a temporary solution. In order to solve the problem the channel must be blocked. The permit process to complete this is extremely difficult since the DEP will not allow any disturbance to the habitat of certain fish and clam beds. The Township has begun their permit process to add additional sand on the beaches. The State owns the land north of Seacliff Avenue and it will not allow sand being pumped onto the beach.

During the July 17, 2008 meeting, Lt. Robert Watkins, Commander of the New Jersey State Police Woodbine Barracks testified that he wanted to clarify some issues that he read in the newspaper. Their response times were clouded by the fact that false alarms are included in the report. He reviews any calls over 20 minutes with the Trooper and the caller. In regards to noise complaints his hands are tied since there is no noise ordinance.

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He does instruct the officer to speak with the offending party. He was never asked to provide additional troopers in Strathmere.

During September, October and November the Board heard testimony by various residents as well as Michael Garcia, Auditor for the Upper Township School Board. His calculations were dramatically different than Mr. Schwartz's. The Board required Mr. Garcia to repeatedly contact the State to verify the School Aid Formula. The State would not estimate any impact without actual figures. He feels the figures by Mr. Schwartz are not factual.

At the November 20, 2008 meeting the Board listened to various members from the mainland. They explained how they enjoyed the Strathmere beach. They cherish the family atmosphere, relaxed rules and free parking it provides. They attend the various Strathmere functions including the July 4<sup>th</sup> parade.

On December 18, 2008, Mr. Dietrich testified to the Township improvements currently in place. They include beach replenishment projects; dune fencing, road improvements and emergency work at Seacliff Avenue. He testified that he has received complaints concerning trash and drainage. Christmas trees were placed at the street ends as requested by residents. A number of calls concerned bridge conditions which he has no control since this is a County road.

Mr. Kelly is proud to serve on the Planning Board. He has attentively listened to both sides during the process. He has learned to understand the concerns of both sides. The process was warranted and needed. He believes the Township has a better idea of the frustrations experienced by the Citizens of Strathmere and Whale Beach. He feels the tax increase of \$700 for a mainland homeowner with a property assessed at \$350,000 would be detrimental to the remaining Township residents. He disagrees with Ms. Bittner that this is not a Planning Board matter. He believes this is a Planning Board concern due to the fact that it affects the economical well being of the effected residents.

Recently New Jersey Publication listed Upper Township as one of the top 5 places to live in New Jersey. The reasons were the beach community, low taxes, education, and low crime levels. He has friends that reside in Strathmere and enjoys interacting year round along the coast. He enjoys the lifeguard races, island race and years of 4<sup>th</sup> of July parades. The lifeguards and junior lifeguard program would most likely be eliminated in a deannexation. This would hurt the social well being of the municipality.

In reviewing the facts he feels the petitioner has not sustained their burden of proof. They have not met the economic or social well being in their presentation. There would be significant injury to the people of Upper Township. Majority would suffer to benefit a minority. Lets continue the democratic process to solve the concerns stated during the prior months to benefit the entire municipality.

MR. BROWN – During a 13 month period the Citizens of Whale Beach and Strathmere have stated their reasons for secession is a lack of adequate police protection, benign neglect of beach maintenance and cleaning, inadequate trash collection and maintenance of roads and slow response to snow plowing. They feel that Strathmere is too distant from Upper Township schools and their children would be better served by attending Sea Isle City schools. They have stated that the dunes are not maintained and dune fencing is not installed properly. They have testified that the Township has not responded promptly

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or properly concerning beach erosion and has not timely acquired permits from DEP for beach replenishment. He feels the Township has defended their actions in a creditable

manner. Deannexation would produce a \$400,000 reduction in operating costs but loss of Strathmere ratables would increase taxes by about \$700 per year on an average \$350,000 home on the mainland.

He feels that Strathmere would be impacted by loss of social diversity and would lose its unique laid back atmosphere due to the Township's more lenient boater and beach laws and no beach tags. It is his opinion that improvements could be made to the programs and services provided that would be satisfactory to both Strathmere and the mainland without deannexation.

MS. RAGAN – A copy of the petition requesting deannexation from Upper Township was forwarded to members of the Upper Township Planning Board on or about November 27, 2007. The petitioners who reside in Strathmere refer to themselves as Citizens for Strathmere and Whale Beach. Accompanying the Petition was a letter written and signed by one of the petitioners verifying the Petitions were circulated to and collected from registered Strathmere voters between October 10, 2007 and November 7, 2007. A voter's list was also included. More than 60 percent of the voters signed the Petition. A map showing that Block 750 through Block 869 is surrounded by dashed lines to indicate the boundary of the land to be annexed. Included with these items was correspondence regarding the assessed values of this portion of Upper Township. The Tax Assessor certified the value of the property to be \$399,543,00.00 as of January 1, 2007. Robert E. Schwartz, CPA, verified that in 2007 the assessed value of Strathmere section of Upper Township is \$394,680,518.00. In order to make a recommendation to the Township Committee the Planning Board has held several hearings throughout the year. There has been testimony by several of the petitions, sometimes more than once. The Board has listened to numerous witnesses, experts and non-petitioning residents. Strathmere is not geographically or physically connected to the rest of Upper Township. It is continuous to Sea Isle City. Many Strathmere residents shop, congregate, and partake in social events in Sea Isle. According to the senior petitioners, Sea Isle welcomes them to their senior center that is closer than the senior center in Upper Township. As a non-resident of Sea Isle, Strathmerians are free to enjoy Sea Isle as they wish. Therefore, it is a fact they do not need to annex to Sea Isle to enjoy the social activities. Much time was spent on the issue of police protection. If deannexation were to happen Strathmere and Whale Beach would be protected by Sea Isle City Police, which they believe would be able to respond faster than the State Police. Many petitioners testified that State Police response times were inadequate or ignored. They also stated that vandalism and beach parties would decrease if Sea Isle City Police protected them. The subject of an interlocal police force was addressed. Various expert witnesses regarding this possible solution were heard. Representatives of Sea Isle Police Dept and NJ State Police also presented statistics on call times. Part time patrols hired for weekends in the summer seem to be a deterrent to crime. In the past year much has changed on our beaches, including increased erosion. The north end now has a rock wall and a major beach fill is planned soon. Proof does not exist that Strathmere would be less likely to erode or they would be more likely to obtain federal funding if they were part of Sea Isle. It is likely the beaches would be less natural like the Sea Isles beaches.

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The economic impact would be negative if Strathmere were to deannex. The loss of \$400,000,000 in property would cause the school tax rate to increase. The increase in

State Aid as suggested by Mr. Schwartz has not been validated. Keeping Strathmere in Upper Township would have a positive economic impact for the residents as the possibility exists that Upper Township school tax could decrease and the schools could collect more money over time as new homes and businesses are built in Strathmere.

MR. KISSLING – Some of the complaints have been the lack of law enforcement. The State Police have stated they can be there in 17 minutes. Strathmere is 13 miles from the station. He feels this response time is not much different than the 12.7 miles to Tuckahoe. Snow removal, beach cleaning, parking meters, lack of noise ordinance, trash collection are other items of concern. He feels Sea Isle provides similar services. Doug Gaffney, Coastal Engineer, feels the Township has done a good job of actively taking care of problems in Strathmere. The Dept of Education refused to make a statement on future school funding. Sea Isle schools will be closing and the children will attend Ocean City schools. Sea Isle and Strathmere are 2 different types of towns.

The Township would lose land and ratables if Strathmere were to deannex. There would be a 20 percent increase in taxes for the rest of the Township. The Township would lose 370 acres, mostly wetlands, future ratables and a prestigious beach area.

He feels the deannexation is a result of the revaluation done by the Township. He feels that in this bad economy Strathmere is retaining its value better than the rest of the Township.

MR. BREADY – Residents are concerned about beach issues. He does not understand why some residents will not provide easements to correct the issues. Residents have claimed that Upper Township is pro-development and wants to see high rises. Strathmere has septic systems that will not support this type of density. He stated that it is common for water to back up and flood when you live at this elevation. Lt. Watkins of the State Police states that response time is almost the same Township wide. The crime rate obviously indicates that policing is adequate. Illegal fireworks happen in Ocean City also. He feels the noise issues would not improve if Strathmere were part of Sea Isle since Sea Isle is known for loud bars and parties. Deannexation is not a solution to the problems. Residents need to become more active in local government.

He feels the issue was created by the revaluation done by the Township. Mr. Schwartz stated in his testimony that if deannexation were approved the residents of Strathmere would be paying \$4,000 per year when they are now paying \$11,000 a year. He feels the Citizens of Strathmere and Whale Beach have not met the heavy burden of proof for deannexation from Upper Township. Therefore he is opposed to deannexation.

MR SCHRODER – His comments are not only based on the testimony given but as a property owner in Strathmere. His family began renting a campsite in Strathmere 1955 and in 1962 they purchased the trailer park one month before the Storm of 1962. He has witnessed many storms since then. His family has worked very closely with the Upper Township Committee and Road Department to solve any problems.

On occasion they have had to call the State Police. He feels they have always been prompt and have handled every scenario in a professional manner. He feels the very low crime rate speaks for itself. He believes the protection by the State Police is more than adequate.

He believes that an interlocal agreement with another police force or expand the duties of the life guards to patrol the beaches at night could help eliminate the fireworks and beach parties.

He feels the cooperative efforts of the Township and the residents in installing snow fencing has worked well. He believes the Dept. of Corrections inmate program is fiscally responsible. The quality of snow fence used is appropriate and adequate. He feels the ramps to the beaches are properly maintained. He feels it is time to start charging a fee for using the beach. He feels the Township does a good job at replacing the sand back onto the beach after a storm. He feels that in the future the Township should be more diligent in understanding the need for action to offset any potential damage.

He feels the economic impact of deannexation would be considerable. The average home in Upper Township would see a \$700 property tax increase if the petition were granted. Upper's bond capacity would be decreased by more than 12 million and the operating budget would be decreased by \$500,000.00 per year. He feels there is a cultural connection between the mainland and Strathmere. Strathmere offers junior lifeguard programs, surf camps, 4<sup>th</sup> of July parade, boat ramps and other beach and bay related activities to benefit the entire township. The mainland offers many social events, sporting and educational programs and senior programs. He has always felt the mainland and Strathmere serve as one unit and the elimination of any part of the Township would cause a negative social and economic impact. Any elimination of a fully functioning unit would be detrimental.

Most of the issues discussed are normal complaints of any town. He feels many of the problems can be solved with the creation of a dialogue between residents, the Upper Township Committee and Road Department. He feels the uniqueness and attractiveness of his community is well enhanced with Strathmere being an interracial part. He is opposed to the deannexation.

MR. CORSON – He feels that deannexation would have a significant impact on the school taxes. He feels that Strathmere would lose its uniqueness if it were to deannex and become part of Sea Isle. It would most likely lose the post office, fire house and village atmosphere. The New Jersey State Police times are consistent with the rest of the Township. If Upper Township did not have Strathmere then Beesleys Point probably would not have lifeguards.

MAYOR PALOMBO – He feels the role of the Board is to look at the social and economic impacts and how it would affect Upper Township as a whole. If Strathmere were to deannex to Sea Isle the Township may have to initiate a local purpose tax. Each individual section of the Township makes a unique diverse environmental and social opportunity to make a great Township. He believes the uniqueness of Upper Township makes it a premier location to live in. He goes to Strathmere 3 or 4 times a week during the summer. He feels the beach is a very important aspect of the Township. He feels Township Committee has worked hard to address some of the problems. He feels the social impact would be detrimental to the Township in general if Strathmere were to leave.

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MRS. SCROCCA – this matter is governed by NJSA40:A7-12 which sets forth the procedure by which land in one municipality can be annexed to another contiguous municipality. That particular statute sets forth the procedure the Board must follow. The

companion statute sets forth the standards by which any petition or deannexation must be governed is 40A7-12.1. Essentially the petitioners have the burden of proving that refusal to consent to deannexation is detrimental to their economic and social well being and that the deannexation would not cause a significant injury to the well being of the remaining residents in the municipality. The Board is also guided by the standards set forth in the Avalon Manor vs. Middle Township case. The residents are concerned the Township doesn't maintain the beach properly and feel that Sea Isle City would do a better job. They are concerned about erosion, trash and seaweed on the beach, and the method by which the Township puts up snow fencing. The Strathmere residents have raised several issues involving the school such as the ride is too long and the distance is too far. They gave testimony in regards to the lack of police protection. They claim the State Police have a slow response time or no response at all. They feel the lack of police presence provides an opportunity for vandalism. The residents feel they would be better served by Sea Isle ambulance service. There are issues regarding drainage and snow removal. The residents also complain that the Master Plan ignores Strathmere.

In reviewing the matter for 14 months she does not believe any of the problems or concerns raised by the Strathmere residents are the real reason the deannexation petition was filed. The testimony points to one conclusion best summarized by the testimony of Mr. Lord when he stated that "the services we get don't match the level of taxes we pay". She feels this is the purpose of the matter. She reviewed the testimony given by the various expert witnesses. Leah Fury, Professional Planner, discussed the positive effects that deannexation would have on Strathmere's health, safety and welfare. She testified there would be no negative effect on the Township and that Strathmere is more like Sea Isle City. She did not address any fiscal issues. Robert Schwartz, CPA, testified that deannexation would not result in any change to the local purpose tax. He was amazed there is no local purpose tax and agreed there will most likely be in the future. He also pointed out that Strathmere constitutes 17% of the property valuation but only 4% of the Township's budget. He also stated that Upper Township would save \$600,000 in County taxes. She finds this is not so since testimony by the financial witness Leon Costello made it clear that the Township is only the collector of the County tax and that money goes straight to the County not the Township. She did not give Mr. Schwartz's testimony and opinion as much weight as the testimony of the other financial experts due to the incorrect testimony that the Township would save \$600,000 in County taxes and that he was so quick to say that Upper Township would benefit by annexing with Corbin City when he had done no fiscal analysis. He did agree the \$700 added taxes to the average homeowner would be a financial burden on the remaining property owners. He testified that the Strathmere residents would have significantly lower property taxes if they annexed with Sea Isle City. He also testified that Upper Township would have to find 3.75 million dollars from other sources to make up Strathmere's lost revenue. He believes the schools would get an increase in State Aid by eliminating Strathmere. She feels his testimony is speculative since the State refused to project future aid to the

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schools since there were too many variables and with the current economic crisis she feels there could be less funding in the future from the State.

Douglas Gaffney, Coastal Engineer, was very critical of the Township's past handling of the beaches, the dunes and the way the berm is maintained. He testified the Township would not qualify for FEMA emergency funds since we do not have an improved beach. Leon Costello, CPA, testified the County tax would remain flat and that the school tax would increase by 20 cents per 100 for every remaining property owner. He testified that it would be irresponsible for the Board to rely on the school funding formula when projecting into the future. She finds his testimony to be creditable. Mr. Costello also testified that Adjustment Aid would not increase or decrease since enrollment in the schools remains flat. His conclusion was that we would not get a significant increase in State Aid if Strathmere deannexed.

She found Dr. Stuart Farrell's credentials and knowledge of the Strathmere beach to be particularly impressive. He has monitored the beach since 1985. He described the historical nature of the beach migration in Strathmere. His testimony essentially negates the testimony of the Strathmere residents about neglect over the years. In 1991 Strathmere was in the best situation since the Township participated in a beach fill. The year 1999 was another critical point and in 2001 the DEP did a 2<sup>nd</sup> beach fill. There were no significant problems for many years. He was not alarmed until about June 2007 when the problem on the beach began reaching critical state. The Township is once again responding. The Township will participate in a beach fill projected to occur later this year. He spoke of the difficulty in managing the erosion since the NJ Land Trust says there can be no construction on the beach other than the placement of sand. Dr. Farrell rated the Township reactions on needs as they arise with a B. He testified that Sea Isle and Upper Township essentially react to crisis with regard to the migration of beach in the same manner.

Testimony by Michael Garcia, CPA, indicated there would be increased revenue of \$13,499 if there were a deannexation as well as a savings of \$15,000 based on the fact that the Township would not be sending any children to Ocean City High School. He also agreed the Township would save \$4,000 in transportation costs. He reiterated that the Board should not rely on increased aid from the State. He also testified the Township would lose \$393,000,000 in ratables if deannexation occurred which would result in a 19.7 cent tax increase to the remaining residents. He projected that an average home value of \$350,000 would have a \$689 tax increase.

Lt. Watkins of the NJ State Police testified in regards to the complaints about police protection. He testified that State Police do not handle false alarms. He testified there is as much police presence in Strathmere as the rest of the Township. He noted that the crime rate in Upper Township and Strathmere is much lower than Sea Isle City. He gave a detailed analysis of why the response time testified to by the petitioners expert was not accurate. The response times are generally lower than reported since there are too many variables that the computer has to take into account.

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Lt. Watkins testified that this particular barracks has less of a geographic area to cover than Beuna or Woodstown. He went back to check with the complaint department and there have been absolutely no complaints by Strathmere residents to the State Police. The Board also heard from members of the public who are not in favor of deannexation since they do not want to lose funding for the schools. One Strathmere resident testified she is satisfied with the services provided by the Township. Many residents describe the

beach as their favorite amenity. Many residents pointed out that Strathmere's concern about the level of service is the same as the rest of the Township. They testified Strathmere is an upscale part of town and they are proud to have it.

She finds the positive factors for Strathmere are the slight increase in their comfort level since they may get a slightly better response time. They would have much lower real estate taxes if they annexed with Sea Isle. While there would probably be no change in ambulance or fire protection, they would get trash pick up twice a week in the summer as opposed to once a week.

A positive factor for the remaining residents of the Township is there would be an additional \$400,000 in the budget to use elsewhere. This would not reduce the Township tax rate. The services would be spread elsewhere and absorbed. There be no children from Strathmere going to Ocean City High School which cost \$15,000 per year. There would be a decrease in transportation costs.

The neutral factors are there would be no significance either way on Strathmere or Upper Township socially. She feels that where you shop or go to church is a matter of geography and convenience it is not dictated by the geographical boundaries of the town you live in. Many of the complaints of the Strathmere residents are a product of their geography. As pointed out by several people Strathmere is an island. Roads will flood and children will have difficulty getting to and from school when living on an island.

The only negative factor is to the owners of the local taverns. Testimony was given earlier in the hearings that the petitioners had not decided if they would attempt to annex with Ocean City or Sea Isle City. If they were to annex to Ocean City the taverns would not be able to keep their liquor licenses.

The negative factors include the lose of 370 acres of land and approximately \$393,000,000 in tax ratables. There would be a significant lose of future tax ratables to the remaining residents of the Township. If deannexation occurs the remaining residents would lose significant local purpose tax ratables. There would be a significant increase in the school tax to the remaining residents. Both sides agreed the average taxpayer would pay an additional \$700 in school taxes if deannexation occurred. This does not take into account the current state of the economy. She does not believe there will be a significant increase in State Aid. Further, the deannexation would result in a loss of significant recreational area. She finds this case is almost identical to the Avalon Manor Case due to the \$700 increase in taxes to the remaining residents, the lose of control over natural wetlands and the lose of one of its nicest areas.

Based upon the testimony heard regarding lose of tax revenue, lose of control over the beach and lose of one of the nicest and most social prestigious areas of Upper Township, she finds the negatives to the remaining Township residents greatly outweigh any other factors in this case. For this reason she cannot recommend to Township Committee that

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Strathmere be permitted to deannex. While she believes that some of the petitioners concerns have merit they should be taken to Township Committee.

A motion was made by Mr. Kelly and seconded by Ms. Ragan, to prepare a report to immediately be forwarded to Township Committee summarizing the findings of facts, analysis and assessment of the impact of deannexation on both Upper Township and Strathmere and recommending to the Township Committee that the petition be denied for

deannexation. In favor: Kelly, Brown, Ragan, Kissling, Bready, Schroder, Corson, Palombo, and Scrocca.

**RESOLUTIONS**

1. RC CAPE MAY HOLDINGS LLC – BLOCK 479, LOTS 74, 76, 76.01 – PB01-09

A motion to adopt the resolution was made by Mr. Schroder, seconded by Mr. Kelly, and approved.

2. NORTH BAYVIEW LLC – BLOCK 856, LOT 12 – SD09-08

A motion to adopt the resolution was made by Mr. Schroder, seconded by Mr. Bready, and approved.

**BILLS**

A motion to pay the bills as presented was made by Mr. Corson, seconded by Mr. Schroder, and approved.

**ADJOURNMENT**

A motion was made by Mr. Kelly to adjourn the meeting. The meeting was adjourned at 7:20 p.m.

Submitted by,

Shelley Lea  
Secretary