

Town of Milton
Town Council Meeting
Milton Library, 121 Union Street
Monday, June 6, 2011
6:30 p.m.

Transcriptionist: Helene Rodgvile
[Minutes are Not Verbatim]

1. Public Participation

- a) Jeff Daley, 211 Gristmill: I just want to mention that I hope Council and Mayor will be compassionate when people who are in arrears, whether it be taxes or sidewalk or code violations; I would hope that each case would be treated individually. The Town, through the Mayor mostly, is forever saying these are tough economic times and the Town Budget is suffering, so too for each of our citizens. So I would just like Mayor and Council to be mindful of that. In the past, oftentimes, individuals were spoken to individually. Sometimes people are in tough situations; they are by themselves; it's not a two earner household, with the jobless rate, etc., things are tough; so I would ask that our Town be one of compassion and understanding as much as is possible. Thank you.
Mayor Newlands: Thank you.
- b) Ginny Weeks, 119 Clifton Street: I'm here to talk about taxes. I have a friend who is in arrears on her taxes and she went down to Town Hall to set up a payment plan and her payment plan includes an interest rate of 2% a month and 2% penalty per month; for a total of 48% per year and I think that's horrendous and obnoxious. People who are behind in their taxes; are not behind in their taxes because they didn't bother to write the check. It's because they're having a tough time. You were on the charter. It says it in the charter, that you can charge up to that, however, the charter says the Town Council, not Town Hall, not the Mayor, may impose a collection charge, not to exceed 24% of the amount of the tax of any interest or penalty imposed thereon. So I would ask this Town Council tonight, to put that on the agenda when the agenda needs to be corrected and to make sure that we are treating our fellow citizens who are having a difficult time with compassion. I don't know any bank, any credit card, anybody who charges 48% a year. If you're charging 48% and somebody is in arrears \$1,000 and they can pay \$50 bucks a week, their paying \$40 a month in interest and penalties and \$10 is coming off their bill and you guys should be ashamed of yourself, if that's what is happening. The other thing I want to bring up is this friend was also taken off a Committee; which is your right to do; however, I want to know if there is a procedure in place for that, because no where can I find that and if that's a new procedure; was it discussed and was it voted on? Thank you.
Mayor Newlands: Thank you.
- c) Lynn Ekelund, 406 Union Street: I just was wondering if you could give me an update on the prohibition about the 3 or greater axle vehicles on the state-maintained roads.
Mayor Newlands: Allen may be able to do that. Let him go to a microphone.
Allen Atkins: I don't really have anything else from DelDOT, but they are in the process of rerouting trucks through town and we just got our signs put on our streets; so DelDOT's in the process of rerouting traffic from 5 down 16 around the truck route; but they haven't done it yet.
Mayor Newlands: Okay. But we have our signs.
Allen Atkins: Our signs just came in today.

Mayor Newlands: Okay, they just came in today. Latest update.

Lynn Ekelund: So then, the way the procedure goes is then we have to have an ordinance and then the ordinance has to somehow amend our code?

Mayor Newlands: We've already passed an ordinance a couple of months back.

Lynn Ekelund: We did? See I missed that totally. So now...

Seth Thompson: I think it was a Resolution declaring...

Lynn Ekelund: We did a Resolution and it's my understanding had to go to DeIDOT; DeIDOT had to approve it; then the approval would come back to us; then we would somehow pass an ordinance and amend the code. That's my understanding. We haven't done that.

Seth Thompson: And we needed the signage too.

Lynn Ekelund: And then just one more question, when we pass an ordinance, is there going to be some sort of a fine for violating the ordinance?

Mayor Newlands: Sure there should be, yes.

Lynn Ekelund: But we haven't...

Mayor Newlands: It would not be a good ordinance if we didn't have any fines and penalties in there.

Lynn Ekelund: I just hadn't seen anything. So we're just going to do that in the next month or so?

Mayor Newlands: I don't know if we've gotten the answer back from DeIDOT on the Resolution. So we're waiting for them to certify what we sent them.

Lynn Ekelund: Okay and then we'll just go ahead and do it. Thank you.

Mayor Newlands: You're welcome.

- d) M. J. Ostinato, 208 Chestnut Street: We're here for a specific problem with a derelict property behind our house; and also sort of a general problem with apparently Code Enforcement. As you probably know, Cliff, we have a barn on the property behind us. The property behind us is 205 Federal. The homeowner doesn't live here; he lives in California and I've only met him actually one time. He comes here, I think, twice a year. He has a barn on his property, whose back wall is on the property line; which at that time was okay. It just happens to be on our property and our neighbor, Bob's. Last year during the big snow storms, the roof collapsed. The property was always in bad shape and when the roof collapsed, the barn sort of imploded and started imploding onto our property and to Bob's and it has become very dangerous. We've been really frustrated because we called Robin Davis; he never returns phone calls. We emailed him, he doesn't return emails. Mike's talked to him in person. Our neighbor has gone down to Town Hall several times and we're just frustrated because we live in the Historic District and we try to keep up our property, which is expensive and we have this neighbor who is apparently not compelled to do so. He did come back in April 2010 and he put a cable around the property, which isn't attached to anything; so this year during the big wind storms, all that happened was the property kept shifting and the cables is pulling it... It's just not stabilizing the property. So the last I've heard is that he's going to apply for a variance to rebuild the barn and then he will take the barn down and we're just totally frustrated and confused about when the Town will compel a property-owner to take care of... It's actually become very much a safety issue. We can't work in that part of our yard; we have glass and wood and debris, among other things; and we really can't do anything about it and so far I haven't seen that the Town is willing to do anything and I guess, in general, I'm upset because I feel like it we are going to encourage people to come to the Historic District, we need to compel homeowners to take care of their properties; or at least, stop them from being a safety hazard. That's just my general... It's kind of ironic, because we're talking about forcing people to... Or being

compassionate to people about their taxes; and I'm upset because we pay our taxes and we have this gentleman behind us who has not been compelled to do anything. So that's just my general upset.

Mike Ostinato: I can't say too much more than what she said, other than if you go look at the property, which Marion Jones did; it is derelict; it is falling in; it's falling on our property. I was on a ladder last year just trying to clear some vines off of it, because the vines are falling into our garden area; which we can't use anymore; and a piece of the wood came off of the top and knocked me off the ladder. I had to go to the Emergency Room; they thought I broke my leg; I didn't and I never said anything about it, because things happen. If that thing falls down while she's out there working on it, or Bob; there's going to be serious consequences. This barn is derelict and the cable that he put around it, 1/4" cable, I guess he thought he was going to cinch it in; well the whole thing has shifted and it's dangerous; it's a fire hazard; it's full of trash and what he did the last time he was here was put up a red or orange piece of cloth covering the hole in the back by our property, so I guess we couldn't look into it. We just really need some help here. I thank Marion for coming up and looking at it and Cliff, you've talked to me a couple of times.

Mayor Newlands: I've looked at it.

M. J. Ostinato: Yes, Cliff did return my phone call.

Mike Ostinato: And I know he's coming back here and I guess it's our right to be at that meeting; because he's going to call for a variance; and I just think that we need some help.

Mayor Newlands: You'll be notified of the meeting, because you're within a couple of hundred feet of the property.

M. J. Ostinato: I did read the code today. Marion gave me a copy. I guess my question is too, if he applies for a variance and whether or not he gets approved for the variance; which I'm in the dark as to why he would need one; but then what happens? If he says he's going to rebuild the barn, will he be compelled to tear the barn down; because this has gone on for a while now.

Mayor Newlands: The issue at hand, as far as I know, and Robin will correct me if we're straight on this; is that the footprint of that barn is on the property lines and he was trying to maintain that footprint. But I don't think there's a foundation underneath that area; so if there's no foundation, when that comes down; he's got to move it in 8' on both sides; so he's asking... 6'. 6'; so he's asking for a variance for that to be 3' on each side.

M. J. Ostinato: But what happens then, is my question? If he gets the variance, will there be a time period?

Mike Ostinato: Will he be compelled to tear it down?

Mayor Newlands: Actually, I'm just learning now that there is a time period.

Seth Thompson: If you want, I can go through the analysis. We might be ahead of time though. In essence, the danger issue is something separate; potentially from the need for the variance.

M. J. Ostinato: Yes, but that's what we're saying. This seems to be hinging on whether he gets a variance or not; my issue is that barn needs to be torn down and what is going to compel him to do that? He keeps putting off the inevitable; so that's what I'm trying to find out.

Seth Thompson: Understood.

M. J. Ostinato: What is the town going to do to compel him to address this?

Seth Thompson: I would hope and I would think you are going to be at that hearing for the variance, that it would include a time line; probably an expeditious one in terms of getting that done.

M. J. Ostinato: Because I know he applied in the past for... Well you were on the

Committee. He put new siding on the house and he never did that; and it's been what 2 years, a year and a half; so there just seems to be no follow up on these things.

Councilwoman Duby: Seth, you mentioned the danger issue, as a separate one, but it seems to me that should take priority in terms of urgency over the issue of the variance. Is there a way for them to deal with that? Who do they come to? How does that happen?

Seth Thompson: In order to start that process of removing a dangerous building, it doesn't need a particular complaint. In essence, that could be initiated by the town. I'll have to go through and double check the time line on that, but it could be that given that time line, you might run into the variance, as well. But that also could prompt the applicant for the variance to follow through, if he's facing a deadline based on the dangerous building.

Councilwoman Duby: It seems to me this has been going on for long enough that we should have issued something to him about this being a dangerous building or a building that is condemnable or something of that nature.

Mike Ostinato: Since Marion Jones came up and looked at it, more debris has come down into our property.

M. J. Ostinato: We now have this huge whole mess.

Mike Ostinato: I'm not going to go pick it up, because if you go up there and see it, if you touch one of those boards, the whole thing would fall down; it seems to me and I'm not going to go back there and do that anymore.

Councilwoman Betts: I don't think we should have to wait for the variance. I think we should call a special something, to take care of it.

Seth Thompson: Right and you don't have to wait for the variance. It sounds like that was the property-owners attempt to resolve the problem; but they are not mutually exclusive.

M. J. Ostinato: I guess that's what I'm saying, we were told that when he gets the variance, then he'll tear the barn down. Well I don't think that this should hinge on whether he gets a variance or not. That's where I keep running a wall; like what's going to compel him to do something about the property. Because he could tear it down and rebuild later; that's not an issue.

Seth Thompson: That's right, they're not mutually exclusive. I believe your code allows for a six-month grace period for something damaged by an Act of God; but it sounds like we're...

Councilwoman Betts: That wasn't an Act of God, I don't think. It's for years.

Mike Ostinato: If we can get some help in that area, because when he comes before you for a variance and he asks for 6'; he's going to ask for 3' and it is 6' and I don't know how much say anybody has in it; how much say the homeowners in his backyard; but I'm going to say no.

Seth Thompson: You certainly have the right to.

Mike Ostinato: Then we're thinking, all right, so we say no and he doesn't get this variance and then he says well screw you and I'll go back to California and that's where he's going to stay.

M. J. Ostinato: It seems to be that there is nothing compelling people to actually address these property issues or safety issues.

Seth Thompson: Your Code does provide for means of addressing that.

M. J. Ostinato: Okay.

Mike Ostinato: Good.

Councilwoman Duby: And the issue is why haven't we addressed it?

Mayor Newlands: I'll talk with Robin tomorrow and I know he talked to Seth last week about some of this stuff; just to get up to speed on some of this Code, so we'll make sure we get it resolved. I don't think, right now, what I'm learning is that the variance will hinge

on him taking the barn down; there's no reason for that; especially since there's no foundation underneath there; then one doesn't have anything to do with the other. We'll expedite this as fast as possible.

Councilwoman Jones: Mr. Mayor, from discussions I have had with the Ostinato's and Mr. Chambers, who is the neighbor next to them, that also has a portion of the barn on his property; is that this, correct me, at least February 2010 that was in the snow; so I'm guessing that the actual complaint came before, because I think you told me that first snowstorm took quite a bit of it down. I think the issue here is follow-up, Mr. Mayor. Dangerous property and follow-up. Well, holding someone responsible; especially at a time when we entertain expanding our Historic District and the present Historic District is not being held to standard.

M. J. Ostinato: It's expensive to maintain an historic property, but we chose to do that; but then what's compelling other people to do that as well. Our property taxes are obviously low; he can pay the property tax and never do a thing.

Mayor Newlands: But until recently, we didn't know there was no foundation underneath there and when did we find out? Now that we know there's no foundation underneath there, we'll expedite that. Okay?

M. J. Ostinato: Thank you very much.

Mayor Newlands: You're welcome.

- e) Katherine Grieg, 326 Union Street: I'm here tonight wearing three different hats. Twenty years ago when I was looking forward to retirement, I never realized I was going to have so much fun doing stuff for free. Anyway, it is a hard time for everybody, including businesses and I had sort of an unnamed business group and we have put out this little Welcome to Milton brochure that has ads in it for a number of the businesses and a number of the community organizations, like the Century Club, the Garden Club, the Chamber, the Historical Society; on the back we have directions on how to get to Milton and a list of some of the events that are held. We had 2,500 copies of this printed and we've passed them out; we still have probably about 500 to give out, but they are all over the State of Delaware, in Maryland, Virginia, and Pennsylvania; hoping to get people to come to Milton to shop and eat and spend some money. I took some and put them on the table back there, if anyone hasn't picked one up; then feel free to do so. If you know of somewhere that you could leave them, we have them at the Rest Stops and at the Lewes Ferry Terminal; but if you know somewhere else that has a little brochure holder that would take them, we would be glad to give you some. The second thing is Saturday of this week, and there's a card back there also, is the First Annual Art and Antique Show. We have 29 vendors signed up. It's one more than we've ever had. We usually have 26, 27 in the field and as desperately as a gardener that I want it to rain; I don't want it to rain Friday or Saturday because the field kind of gets wet and we may have to put one vendor, maybe out in Wagamon's or somewhere. But please come to this event. It's \$2 admission and it benefits the Historical Society and they are going to share some of the money with the Milton Art Guild, because there are some artists; there will be some artists there with original paintings and then the antique dealers. The third thing is about the Garden Club. It has been a rough May so far with taking care of the plants and everything and I really hate to even see August come, when you have August weather in May, what are you going to have in August, is what I think about? But, the question I have is a question that has been asked of me many, many times, is the accident that happened on Super Bowl Sunday Night and took out two of the tree well fences and the trees; people say to me when is the Garden Club going to replace those? Well, I'm asking you; is there a plan? I got the estimate for replacing the fences and turned it in and I know Pepper's has told me an estimate and it's been gotten for the trees.

Are they going to be replaced?

Mayor Newlands: I haven't look into it at this point, no. I'll talk to Allen about it tomorrow.

Katherine Grieg: Because...

Councilwoman DUBY: Where is this we're talking about.

Mayor Newlands: In front of the Book Store; Federal Street in front of the Book Store.

Katherine Grieg: Shouldn't the insurance of that driver pay for all of this?

Mayor Newlands: That's been put in for; I'm not sure if we got the money back yet. We put in for that.

Katherine Grieg: You put in for that.

Mayor Newlands: Yes we have.

Katherine Grieg: Okay, thank you.

- f) Bob Howard, 217 Chandler Street: I noticed on the agenda that you're going to consider tonight, parking restrictions on Magnolia Street. So I'm here speaking as a private citizen because the Economic Development Committee hasn't had the time or a chance to discuss this yet and take a position, but I just hope in your deliberations that you take into consideration the potential impact on downtown merchants and the future merchants, on the potential loss of parking and that impact on their customers, perhaps. So that's all, I just ask that you consider that. Thanks

Mayor Newlands: Thank you.

2. Call to Order – Mayor Newlands called the meeting to order at 6:53 p.m. and closed the Public Participation.

3. Moment of Silence – Councilwoman Betts

4. Pledge of Allegiance to the Flag

5. Roll Call – Mayor Newlands

Councilwoman Hudson	Present
Councilman West	Present
Councilwoman Betts	Present
Councilman Lester	Present
Councilwoman Jones	Present
Councilwoman DUBY	Present
Mayor Newlands	Present

6. Additions or Corrections to the Agenda

Mayor Newlands: Do we have any additions or corrections to the Agenda? While we're talking about the agenda, we can not add any tax issues to the agenda; it's not an emergency, so this has to be noticed to the public and it has to be done at another time; so we cannot add anything to the agenda that's not an emergency. One issue with the agenda, we do not have minutes, so we will not have any presentation of minutes for May 2nd. Are there any additions or corrections anybody would like to make to the agenda?

7. Agenda Approval

Mayor Newlands: Do we have a motion to accept the Agenda?

Councilwoman DUBY: So moved.

Councilman Lester: Second.

Mayor Newlands: We have a motion and a second to approve the agenda. All in favor say aye.

Opposed. Motion carried.

8. Presentation and Approval of Minutes – May 2, 2011

9. Discussion on Written Committee Reports, and

10. Department Reports: Public Works, Project Coordinator and Code and Police

Mayor Newlands: Building Permits are still very, very low. The housing market is still really, really dismal.

Councilwoman Hudson: We're discussing the Project Coordinator and Code Enforcer?

Mayor Newlands: I'm just making a general comment about that, because it affects our finances.

Councilwoman Hudson: May I ask a question about this report at this time?

Mayor Newlands: Sure.

Councilwoman Hudson: Okay, on the monthly report, it mentions Key Ventures tax questions from the Mayor; review files, respond by email. My question concerning Key Ventures, would be do we have a response to Ginny Weeks' question about if, I believe this was the question she asked last month; if we do not get the 20 acres from Key Ventures to sell to Tidewater, will Key Ventures pay us the close to \$600,000 in annexation fees that they have not paid?

Mayor Newlands: They're not at a stage in the development process where they owe us the money yet; so if they don't give us the 20 acres, when they do get to that stage of the development; they'll pay us the annexation fee on the entire 88 acres.

Councilman Hudson: Okay, so they haven't paid it yet.

Mayor Newlands: They're not required to pay it as yet.

Councilwoman Hudson: Okay, right.

Mayor Newlands: The taxes that we were talking about with Robin was they are right now Farm Status; so they're farming the land so they are able to not pay taxes on that; but there is a section of that property that I was advised was wooded; which we may be able to tax, so we're checking that out.

Councilwoman Hudson: What I'm asking for clarification is, if we do not get the 20 acres, will they pay the \$8,000(?) breaker annexation fee?

Mayor Newlands: If they come in before we change that fee, yes.

Councilwoman Hudson: Okay. Thank you.

Mayor Newlands: Okay.

Marion Jones: I have a question about the Code Enforcer Report. Robin, I know that you addressed 205 Federal Street on a couple of occasions during the month of May, but I don't know see it recorded anywhere.

Mayor Newlands: I was talking to him. I'm sorry.

Marion Jones: I do know that 205 Federal, the property the Ostinato's referred to, that you spent some time on that in the month of May but I don't see anything noted.

Robin Davis: What I've done Councilwoman Jones was what I emailed back and forth to you about; talking to Mr. Copans on a Saturday; he was here; we discussed his options about the building; and we had also discussed about the variance. He wants to rebuild that in that spot, but he wants a variance as was discussed in the public comment section; so I'm working with him. I've sent him all the requirements and all the paperwork that he needs to go before the Board of Adjustment to get that taken care of.

Marion Jones: Thank you.

Mayor Newlands: Are there any other questions or comments on the committee reports? We don't need to vote on them, so it's just if you have questions.

Councilwoman Hudson: Are we moving on to Streets, it says you cold patched New Street, Chestnut and Federal; can you give me an idea when Conwell might be done? It's back there by

the Little League Park? Conwell is really getting torn up.

Allen Atkins: Conwell is in the bid package that's coming in the end of the month; for the other streets for paving; so we'll have the estimates on that June the 30th.

Councilwoman Hudson: When do you think it might be done?

Allen Atkins: It will be done...

Mayor Newlands: You're talking about two different things. You're talking about cold patching and you're talking about repaving the whole street.

Allen Atkins: She's talking about the whole street really. It's not going to be cold patched; it's going to be paved.

Councilwoman Hudson: When do you think it may be paved?

Allen Atkins: As soon as we get the bids in at the end of June; then it shouldn't be very long after that; I would say by August or September.

Mayor Newlands: We have to get the money first.

Councilwoman Betts: We've got to get the money first.

Allen Atkins: August or September range probably.

Councilwoman Hudson: Okay.

Mayor Newlands: We're looking for grant money to get about six streets paved; and I would say if we don't get anything near term, on the grant money; if it's not looking like we're going to get that near term; then we're going to have to go out and put some cold patch in the center of that street; there's one section that is a little bad.

Councilwoman Hudson: Okay. I have a question about the police report, a couple of things. First of all, as you go through it, there are page after page after page of bar graphs. I was wondering if we could consolidate that, if Kathy could consolidate that into a spreadsheet. For example, I don't really need a bar graph to tell me there's one DUI. If you had all the offenses and everything listed down here and the month's across the top and then the individual numbers in there, we could see at a glance the whole year or compare to previous months, all the way back to the previous year. Also it would give you an idea of which crimes are seasonal, so I would ask if it would be possible to put all these bar graphs into a spreadsheet and it would save a lot of pages, if Kathy could do that. The other thing is last month and this month and this month, Title XI, Criminal Code and Title XXI have been printed out. This is at least since I've been on the Council this time, two months in a row. This month it's six pages and I checked in the library; the Delaware Criminal and Traffic Law Manual is on the shelf in the reference library downtown; I checked this morning; so we could save quite a bit of printing and ink if we did not have page after page after page of this Title XI and Title XXI, because it is available if anybody on the Council has need to see that, it is down at the library. What I would like to see in this police report; and I'm quoting from the Milton Police Department Policy and Procedures Standard Operating Procedures; this was reviewed November 8, 2007; if this is not still in effect, please correct me; but it says a summary of all grant requests shall be included in the Police Department's Monthly Report to Mayor and Council. I don't think that would be a hardship; some months you wouldn't have grants to put in there; some months you would; a summary could be just a few paragraphs and I think that way there wouldn't be any surprises; first of all, for people saying well, how did this money get spent; and I'm surprised it was spent that way. The other thing is we're going to be voting on these grants this summer, and to just see EIDE or SALLE or Sussex County Grant and \$20,000 here and spent \$20,000 there and nothing specific month by month by month to tell us ahead of time what it's for; it's almost like voting blind; so I would request that the police put a summary of all grant requests in the monthly police report to the Mayor and Council. To me that would be much more pertinent and useful information than repeated printings of Title XI and Title XXI, or these large bar graphs; because I can read a spreadsheet. The other thing that I would request is it says here, in this policy and procedure, a monthly report shall include copies of all credit card expenditures for all credit

cards assigned to the department, regardless of purpose. Because in the Chief's contract, it says "All town business and related expenses justified by itemized receipts will be reimbursed, as long as kept within your approved budget." So again, this to me is pertinent information; credit card expenditures and the grant requests, grant name, type and purpose, status of grant; I think that would be far more useful to the Mayor and Council, especially the Council, because I know the Mayor approves all the grants anyway; so he has knowledge of the grants because the Police Chief goes to the Commissioner, which is the Mayor, and gets approval for the grants; but I think the public has a right to know how the tax dollars are spent; the Council needs up to the minute information on how it's spent; we're going to vote on this stuff in our upcoming budget and I think we should be kept current on that.

Mayor Newlands: We have grant information on spreadsheets, we'll look at providing that. Some of the grants, we have no choice as to how they're spent.

Councilwoman Hudson: I'm not asking how they're spent; I'm asking you to give us the information about them.

Mayor Newlands: I'm just saying, we vote on some of it; some of it we don't get a choice on how to spend it; we're told this money is available for this particular product and we can go out and buy that product.

Councilwoman Hudson: So what I'm asking for is a monthly report, a summary, of these grants and to just comply with the Standard Operating Procedures; to give us the information, even if you have no choice in how it's spent, to let these people know and to let us know and be prepared for the budget.

Mayor Newlands: Sure, okay.

Councilwoman Hudson: Thank you very much.

Councilwoman Betts: I have one question, Chief Phillips. How often do you report when; like do you go back and check when a light has been out for two or three months?

Chief Phillips: Are you talking about street lights?

Councilwoman Betts: Yes.

Chief Phillips: Yes Ma'am we go back and check them and usually, sometimes, we hit them two or three times before they get fixed.

Councilwoman Betts: Because I noticed we have one that's been out since January; we have five since February. Is there some way you could call them and tell them how important it is; because Spinnaker they do not have that many street lights out in Shipbuilder's and I think it's very important that they all are on all the time.

Chief Phillips: We'll definitely make a phone call for you, absolutely.

Councilwoman Betts: I would appreciate that because I do think we need the lights on for safety purposes.

Marion Jones: I have a request for the Chief. Some months ago, during public participation, citizens asked questions such as the number of complaints that were taken outside of Milton's jurisdiction. As you compile these numbers of complaints per month, would you be so kind as to break them down as complaints that are in town; complaints that are outside of your jurisdiction, which would be assist other agency, Milton to the other agency; as well as police forces that come insider and assist you inside of your jurisdiction.

Chief Phillips: We could take a look at that and the Mayor and I can meet and talk about this and figure out something, yes.

Marion Jones: Because that citizen was promised those numbers quite some time ago and had not received anything.

Chief Phillips: I don't recall that right off hand.

Marion Jones: No, it was Capt. Cornwell actually who...

Captain Cornwell: I don't remember promising any numbers, but I remember bringing numbers of

about 250 assist other agencies during several times when we were questioned about that and I explained that during those 250, give or take a few, assist other agencies were with the Fire Department, the ambulance, DFS (which is the Division of Family Services), and the State Police; which we do assist for inside a town and we assist them outside of town and maybe other Police Departments. So not all 250 +/- were outside of town. I've got a pretty good memory. I don't remember telling anybody I was going to get them some numbers and I brought the 250 or 254, something like that, numbers to the meeting without anyone asking; so as far as giving somebody numbers and promising, I don't believe that was so.

Marion Jones: That could be my error, that you did not promise that citizen; but do you see Chief Phillips an issue with providing that information?

Chief Phillips: I'll have to think about that and research it; but we could definitely sit down and talk about it, absolutely.

Councilwoman Hudson: Chief Phillips, what I think is what we're asking, is if you could put the number of times that you would respond to complaints at a school, on the monthly report, then the Council, speaking for myself, I would like to see the number of times that our police force goes outside of our jurisdiction. This, again, relates to our tax dollars for police staff or cars, overtime. I think it has a direct bearing on the budget and that is why Council is asking for this information.

Chief Phillips: I guess my point is, I understand what you're saying and I'd be glad to explain it to you...

Councilwoman Hudson: And I don't think it gives away any secrets to the criminals to say there were 250 outside...

Chief Phillips: No, that's not what I'm getting at. What I'm getting at is if the State Police asked us to assist, we have to assist; we can't say no, we're not allowed to go outside the town; we can't do that. That's just ludicrous.

Councilwoman Hudson: Just like with the grants, we're not saying whether you're compelled to go or whether you go on your own; we would like the number of times that you go outside the jurisdiction of this town. It's a simple number.

Mayor Newlands: Can I ask a question? What is the major concern about wanting to know why they go out of town, number one; or how many times they're going out of town; and, also broken down by each category of complaint? I'm just curious.

Councilwoman Hudson: My personal interest in this is that my tax dollars are paying for these officers, for the cars, for the buildings, for gas, \$900,000 a year or close to it for the police staff; and Pemberton is not paying; Ellendale is not paying; Harbeson is not paying; Painter's Mill is not paying; anybody on Cave Neck Road, they're not paying; we have sold the sewer plant; this town sold its sewer plant; the police right now may be one of our greatest assets we have to attract annexation; and to say over at Bridgeville, If You Lived Here, You Would Be Home Now; they have that sign; well Milton's sign should be If You Lived Here You Would Be Safe; and that should be our asset and I'm not getting into that long argument or discussion about people calling up and saying no we can't go; but this is directly related to how much we're paying vs. people in other towns outside or in developments outside paying nothing; I'm interested in how far we're stretching our staff and our vehicles and our time to police outside our jurisdiction.

Mayor Newlands: They have no choice to go, so I don't understand what you're going to do with this statistic.

Councilwoman Hudson: That's the thing we want to know; we want to know that they don't have a choice.

Mayor Newlands: They're telling you, they have no choice. When they're told to go out of town, they're told to go out of town.

Councilwoman Hudson: Who tells them to go, though?

Mayor Newlands: SussCom does; Sussex County.

Councilwoman Hudson: They control a town's police?

Captain Cornwell: The State Police can tell us that they need assistance, we have a system. You have to understand also, Sussex County has an agreement with the Delaware State Police to provide X amount of money for X amount of troopers every year. It's like \$1.7 million they get for troopers. Sussex County, several years ago, also decided that because they give this money to the State Police for extra troopers, they also started a grant process, giving it to whatever towns wanted to accept the money, in type of a situation of we understand you go out and assist the State Police; this is going to help your budgets for capital projects or whatever you need in your area; so you have to think that the Sussex County also gives money back to the Police Department for their assistance of helping the State Police out of their jurisdiction. Now if you go and say that you won't go out there, I think Sussex County has a right to take their \$20,000 or whatever dollars they help us with to buy equipment or whatever we do, with the money; they can take that away; so that's a give and take; but when the State Police ask for our assistance, we have no other recourse but to assist them. Then there's also a State Law that was enacted several years ago, I'm not sure if it was 2004 or when it was enacted, it's a mutual aid agreement that is State Law throughout the State of Delaware. If the city of Milford calls us for assistance, we have to go and respond and assist them; just like if we call for assistance, Milford comes, Lewes comes, whoever comes. The problem I've got is, when you're on the street and you're by yourself and there's a trooper; and this happened to me; the closest back-up for State Police is at Indian River Inlet Bridge and you've got a guy at gunpoint; and Lewes Police Department shows up; I'm happy Lewes Police Department showed up. If you don't have this experience; I hope you never have to have that experience; but the problem is we have to back each other up, because of resources. The State Police don't have enough resources down here and at times we don't have enough resources; if people don't like it, I'm sorry about that; but we have to do it. They have to help us and we have to help them. We have no other choice. Financially, Sussex County can say, Milton you don't want to provide protection or assistance to the State Police; as I explained before, we do not go out there and investigate the crimes or incidents. We go out and we take control of a scene until the State Police get there; we turn it over to them and we come back. We do not investigate. It's just like if we go out there on a domestic situation and back them up, or some type of thing, we back them up. As soon as everything is under control, or they get another officer there or something, we come back into town. It's the same thing they do for us. They will not come in here and investigate our crimes anymore. It may have happened back in the day; it's not going to happen now. So if one of our people is busy and they come in to take care of a situation, that's going to be relayed or it's going to be taken and given to our people; they're not going to handle complaints anymore, fully like they used to in the past. They don't have the resources.

Councilwoman Hudson: First of all, it's the same thing with the grants, where sometimes you have no choice; if you have no choice, but to respond to these; then again there shouldn't be a problem with willingly supplying the information.

Mayor Newlands: I don't think it's a matter of them not wanting to supply the information; I think it's just an extra burden on them since we're providing statistics for something that they have no choice in doing. I don't want them to go through the extra work of doing that and it's going to actually gain nothing.

Councilwoman Hudson: It's just going to be a number.

Mayor Newlands: It's going to end nowhere; it's going to be a number and we can't do anything about the number. So that's why... Actually, I was going to ask if we could just not do that. Or you think about it another month to see whether or not you really want those numbers broken out; because it's extra work for them and it's going to have no bearing on anything.

Councilwoman Hudson: I understand what the Sussex County Grant is for; I'm quoting, "These grants benefit 21 local Police Departments, especially when officers may need to travel outside of

town limits to assist State Police in answering calls.” They are also giving grants of \$11,250 to four towns, who although they do not have their own Police Force, contract out with state police or other security agencies to provide security service in their towns. So in other words, towns that do not have any police at all, to respond to outside; they don't even have any police; they're getting one half of this allocation, as well.

Chief Phillips: Technically, the state police do not have a jurisdiction in our town. Any town that is 24 hours; there's a law that says they do not technically have jurisdiction at all. To give you an example, there's a lady in this room, a few years back, had a home invasion; a black male broke into her house. We sat on the edge of the town waiting to go help her, right on the edge of our limits and we could not go and they did not send us; and the lady thank God is alive today; but we wanted to go but we could not go because they did not send us. The lady is in this room and she'll tell you she is if she wants to.

Councilwoman Duby: Are you talking about... You sat on the edge of what town, Milton?

Chief Phillips: The edge of our town. Yes Ma'am. We watched the whole thing go down and we couldn't do anything because no one dispatched us. We don't go, just to go. If someone from Broadkill calls and says there's a cat in a tree; we don't do anything for them, but tell them to call 911 or whatever they've got to do. We don't go out looking for more work; we have enough to do on our own, as it is. As far as your spreadsheet thing, bar thing; I would be glad to look over something you have some ideas about. I'll be glad to check that out if it is going to save paper; and also Title XXI, if you want that removed, I'll be glad to work on that. As far as the grants, some grants, if they're Homeland Security, we have to be very careful what we give out and what we take from them and what we buy from them, because some things have to be kept confidential and cannot be given out. I'll be glad to share with you personally, if you want to come by and see what we have. I have no problem sharing anything with you.

Councilwoman Hudson: Okay, this \$20,000 from the County; South Bethany spent \$20,000 for a digital...

Mayor Newlands: Mary. Ms. Hudson we're not doing a budget meeting, so I think you need to...

Councilwoman Hudson: We were discussing this. He brought up about this grant.

Mayor Newlands: I think we're getting a little off topic.

Chief Phillips: The Sussex County Grant is for the Chief of Police; in each town, the Chief of Police is given that money to do what they feel is needed.

Councilwoman Hudson: And what did you do with it this year?

Chief Phillips: Gave it out as enhancement bonus for employees, since we haven't had a pay raise in 3-1/2 years, going on 4 years.

Councilwoman Hudson: Okay. Thank you.

Chief Phillips: I thought it was good for morale and it did what it needed to do. The Sussex County Council did bless us on that. Hal Godwin was in charge of that and he also brought it up to the Council and helped push it through. So Sussex County Council did agree with what we did.

Councilwoman Hudson: They approved it.

Chief Phillips: The Council here knew about it too.

Mayor Newlands: Actually, the County taught us how to write the grant to get the money that way and the Council approved it.

Chief Phillips: That grant had been screwed up in the last administration so badly, that we had to go back and produce receipts and all kinds of things from the last couple of years, that were so out of whack; that's what took us so long for us to get to spend the money on top of that.

Councilwoman Hudson: Thank you.

Councilman Lester: With all due respect, I think we've been beating the proverbial dead horse here tonight. We need to move on.

Councilman West: Mr. Mayor, it's time that we move on.

Mayor Newlands: Yes.

11. Finance Report and Revenue/Expenditures Report

Mayor Newlands: Do you have anything?

Councilwoman Lester: Mayor and Council, today the town accountants made the beginning of recording all the corrections to the accounting statements. Tomorrow morning at 9:00 we have a meeting with the consulting accounting firm and Tom Wagner's office begins their audit tomorrow morning; so we have an opening conference and we'll find out just how many entries were required. We go back for at least two or three years that are incorrect, that we have to fix, so with all good fortune, we should next month, have everything cleaned up and we will be able to present a Financial Statement; Revenue and Expense Report. Thank you, Sir.

Mayor Newlands: Thank you.

12. Old Business – Discussion and possible vote on the following items:

a. Trash RFQ to include Recycling and possibly Yard Waste

Mayor Newlands: We have to put out an RFQ for the next three years. Our contract with M-T Trash is ending in September, so we need to approve going out with a Request for a Quote for trash hauling. Now, what I would like to do is make sure when we come out with this RFQ, we have it both including recycling and regular waste in the same contract, from the same hauler. We can split it up; it doesn't make any sense to split it up; but I would like it all from the same hauler. As it is right now, the hauler's do not have to tell you which part of their fee is recycling. It's one fee we get for all trash and recycling. That's the way the law reads right now. They tried changing in in January so that they could delineate how much recycling was on the bill; but that failed. So right now, we'll get a quote from a hauler to do regular trash and recycling. Now we can add in there a provision to say we want a separate quote for yard waste and we would have to write up how that would be, so we need to decide on that tonight; whether or not we want a separate quote for yard waste or a quote without yard waste. The one issue with the yard waste is the way the haulers like to do it; they want to pick up yard waste between April and October, which are the lightest months there are; which to me is ridiculous. I think October to April were the better months to pick up yard waste, so we need to come up with a plan to write an RFQ. I leave it open to discussion.

Councilwoman DUBY: Can we ask for a quote on the yard waste to include different times; in other words, what would it be if you picked it up April to October; what would it be if you picked it up year round; or, is that not even possible to ask for?

Seth Thompson: You can ask for it to be delineated that way.

Mayor Newlands: Yes, I think that would be a good idea to do that. I'm going to ask for three things; I'm going to ask for yearly, and then I'll ask for two different seasons.

Councilwoman DUBY: It seems to me there's not a lot of happiness in town about the yard waste anyway and I think for us to only get half a loaf, we might as well at least find out how much it would cost to do all of it year round.

Councilwoman HUDSON: I'm in favor of getting a cost on year round yard waste.

Mayor Newlands: I'll ask them to break it down by season or by yearly.

Councilwoman DUBY: And for the recycling, we're going to ask for it to continue as the state was doing it every other week.

Mayor Newlands: Yes.

Councilwoman DUBY: Good.

Councilwoman JONES: Mr. Mayor, what do you mean by "season".

Mayor Newlands: M-T Trash what they'll do right now is if you call them up, they'll

contract with you April through October at \$6 a month for so many bags. That's what they're considering their yard waste season. They did want to pick up November through March; which are the heaviest times when you're going to have yard waste.

Councilwoman Jones: I don't necessarily agree with that, but I would like to see it picked up through December.

Councilwoman DUBY: Pick up all the fall leaves; I don't know that the rest of that time is very useful.

Councilwoman Jones: That would be three quarters if you went March til December; if they're willing to do that.

Councilwoman Betts: Mr. Mayor, can you opt out of having it picked up because there are several people that have their own lawn service that picks it up.

Mayor Newlands: Opting out is a big issue, because it's just a paperwork issue for the Town Clerks; that's the problem. It's like opting out of recycling. The State Legislature's refused to...

Councilwoman Betts: I can see that, but a lot of people have yard service that does their yard work and they take the yard waste; and I think a lot of people would not like to pay twice.

Mayor Newlands: I agree with you.

Councilwoman DUBY: And there are other people that don't need it at all; because they have their own.

Mayor Newlands: That's what she's saying.

Councilwoman Betts: That's just what I'm saying.

Councilwoman DUBY: I mean they have somebody to do it; there are other people that don't have it. I know several people have a place to dump it behind their house.

Councilwoman Betts: And I think it's nice that they have the offer, but I do not think that everyone should have to be compelled to pick it up, if they do not need it.

Mayor Newlands: The problem with having people opt out is really just a paperwork nightmare for the hauler and for the clerks in Town Hall. That becomes just a big issue, dealing with who gets picked up and who doesn't get picked up; that becomes an issue. A lot of the towns when people asked to have an opt out feature on recycling, all the towns said no, we don't want to do that.

Councilwoman Betts: I can understand the recycle.

Mayor Newlands: But having any service that's an opt out service is a problem. So one thing we can do is we can have it so that you privately contract yard waste and that is not done through town contract, at all. We don't have to take the yard waste feature, but we should get a price.

Councilwoman Betts: Yeah, get a price, but I don't think that everyone...

Mayor Newlands: When we come to awarding the contract, we can pick and choose what we're going to award.

Councilwoman Hudson: Most of the people around me actually cut their own grass and they have considerable amount of yard waste that accumulates and they're stuffing it in their garages and right now, unless you have a sedan, like I do, it's hard to put it in your back seat.

Mayor Newlands: I agree.

Councilwoman Hudson: Thank you.

Mayor Newlands: Okay, we need to vote on this; so we have no choice with trash and recycling; so yard waste we're going to get quotes for annual and the two different seasons, I'll call it seasons; that's April through October and November through March.

Councilwoman DUBY: Are we going to ask them as well how much they would charge if

we had an opt out part of it, or...

Mayor Newlands: I don't want to do that, only because it's a maintenance nightmare to deal with. There were emails going around for most of the towns when somebody asked the state if we could opt out of recycling, and none of the towns wanted to do that. It just becomes an issue.

Councilwoman DUBY: I understand. I'm just asking if we're going to make that one of the options. But I understand the reasons for not doing that.

Mayor Newlands: Now also putting up a bin in the maintenance yard, is not expensive. You can literally for \$5,000 a year put that bin out there every weekend. They only charge us \$100 to drop that bin and pick it up, so it's really not expensive.

Councilwoman DUBY: That only helps a certain number of people as Councilwoman Hudson points out; it they have a truck and they can...

Councilwoman Hudson: Or the strength to heave it up there. I put stuff in my trunk and my back seat and went down there, but just to get that stuff over my head to put it in, I don't want to say it was a b-i-t-c-h, but it was. It was hard. I mean there are a lot of people in this town that could not put it in that dumpster.

Mayor Newlands: I know it's not easy, it's not easy.

Councilwoman Jones: Do residents have the ability to opt out of regular trash pick up here in town?

Mayor Newlands: No.

Councilwoman Jones: So even if they're here a weekend a month and they don't live here, they're going to pay the flat rate?

Mayor Newlands: Yes.

Councilwoman Jones: Then I don't see the difference in the yard waste issue; if we're using that as the comparison. But then, I love yard waste picked up at my house.

Councilwoman Betts: And I don't think it's fair for the ones that don't need it and they pay for it anyway.

Councilwoman Jones: But if you use that measure, Councilwoman Betts, the folks who don't use their regular trash pick up...

Councilwoman Betts: And I have done that also. I know what you mean.

Councilwoman DUBY: So what kind of a motion do you need? Is this a motion to authorize the preparation of the RFQ; who's doing it CUBE Associates?

Mayor Newlands: Yes.

Councilwoman DUBY: I make a motion that we authorize CUBE Associates to prepare an RFQ for trash pick-up at the time that M-T Trash's contract expires. The RFQ to include the charge for recycling pick up and that we also get quotes on the pick up of yard waste; several options, year round and one of two different seasons.

Councilman Hudson: I second that.

Mayor Newlands: We have a motion and a second for the trash recycling and yard waste RFQ. All in favor say aye. Opposed.

Councilwoman Betts: I oppose part of that.

Mayor Newlands: Okay, that's fine. Motion is carried.

13. New Business – Discussion and possible vote on the following items:

- a. Approval of new and extension of current Board of Adjustment committee members

Mayor Newlands: Next we have the Board of Adjustment member's terms have expired in April, so we need to extend them. This is Robert Carbone and James Crellin. Let's vote on those two first, just to extend their terms until 2014, for three years.

Councilwoman DUBY: I move that Robert Carbone and James Crellin be reappointed to the

Board of Adjustment for another term to end April of 2014.

Councilwoman Betts: Second.

Mayor Newlands: We have a motion and a second to extend the terms of Robert Carbone and Jim Crellin until April 2014. All in favor say aye. Opposed. Motion is carried. Now we want to add Matt Dotterer as an open seat, which will go until April 2013.

Councilman West: I make the motion that Matt Dotterer be put on the Board of Adjustment until April 2013.

Councilwoman Betts: Second.

Mayor Newlands: We have a motion and a second to add Matt Dotterer to the Board of Adjustment until April 2013. All in favor say aye. Opposed. Motion is carried.

b. Ordinance of Gross Rental Receipt Tax

Mayor Newlands: I neglected to put in your Council packages, just a cover to this Ordinance. In going over sources of revenues I look at all the town's budgets and I look to try and find out what the other towns charge and what the other towns use as sources of income and Gross Rental Receipt Tax is a source of income that most of the towns have; I should say almost every town around here has that. It can bring in around \$200,000 in income to our bottom line. Part of the problem we have with our budget, is our revenue is short on quite a number of things, so this just adds a new source of revenue. The market downturn, the housing market, put a real damper on our revenue, so we need to pick up new sources of revenue and when you see the budget; I started working on the budget a little bit this year and I'll be passing it out to the Finance Committee probably in a week or so, we just need new sources of income. We can't be dependent on the housing market and I don't know what's going to happen to that market soon.

Councilwoman Betts: Mr. Mayor, I would like to table the motion on the ordinance, in order to review this thoroughly, so that we can make all adjustments within our finances for the new budget and that the town will be able to give the citizens who are affected, the proper percentage and what it's going to cost them.

Mayor Newlands: I haven't put a percent on here, that's why it's blank in this ordinance. The town's generally are charging 5-7-1/2% of gross rental receipts.

Councilwoman Betts: I think we should table it to give everyone that is affected by it, some idea as to what this is going to do to their budget also.

Councilwoman Hudson: Can I ask something? Would there be a second vote on the amount, on the percentage? We could vote on this tonight and then vote on the percentage at another time.

Seth Thompson: The way it's drafted, it wouldn't start; and again, it's the way it's drafted; the reason it's blank is I figured you would want to look and see well what's the difference; what would this really bring in? It is helpful so that people can see what exactly it applies to; what it doesn't apply to. You wouldn't necessarily need a separate vote, but again, the way it is drafted, I don't believe it takes affect until...

Mayor Newlands: October.

Councilwoman Betts: It doesn't take the affect, but I think that a lot of the people that are going to be affected by it, do not know anything about it.

Seth Thompson: If you want to table it, if you want to consider it next month; again, it's...

Councilwoman Betts: That's what I'm asking. I'm not saying that we don't need it at all; I'm just saying to be more open with everyone in letting them know what's going to take affect.

Councilwoman Duby: I don't object to tabling the vote; I would, however, like to ask a couple of questions and discuss it tonight. I have no need for the vote to be tonight;

because I agree it would be good to get more input from the public and so on; but I have a couple of questions. As I understand this, or at least as it's drafted; it's unclear to me. Does this cover... Clearly it covers rooms, boarding houses, Bed and Breakfasts, and so on; does it also cover just regular rental houses?

Seth Thompson: It does. Rental houses, meaning a home.

Councilwoman DUBY: If I lease a house for a year, that's covered by this, as well as if I stay at a B&B for one night; their income is covered by this.

Mayor Newlands: Except if the...

Seth Thompson: If the State Lodging Tax applies, then this would not be an additional tax on top of that; so for instance, motels are subject to the State Lodging Tax, which I think is 8%; although it might have been one of the taxes that are under review in the legislature.

Councilwoman DUBY: So motels are, but B&B's are not? Or...

Seth Thompson: I'll have to double check on the state code, but the bottom line is the way it is drafted, if you are subject to the state code, the town would not also tax you.

Councilwoman BETTS: That's what I want to know also.

Mayor Newlands: You will not be double taxed.

Councilwoman HUDSON: I think this is a good thing to have. We're near the beach where the realtors are selling Milton as resort community and a lot of people are renting and I think we're long overdue to have something like this. I know Ocean View and Fenwick make a lot of money off this. This is a good chunk of their revenue; so I'm firmly in favor of this.

Mayor Newlands: Now what Georgetown does is they do a flat... They raise their rental license to \$300; instead of having a percentage, they have a very high rental license.

Councilwoman BETTS: So it could be done either way, right?

Mayor Newlands: Yes, it could be done either way. They're the only ones...

Councilwoman DUBY: So they don't have a tax on the receipts; they have a higher...

Mayor Newlands: They just have a much higher rental license.

Councilwoman DUBY: I think it's a good potential source of revenue. I would...

Mayor Newlands: We have 300 rentals in town, so there are a lot of rentals.

Councilwoman BETTS: I would just...

Councilwoman DUBY: As, hopefully, the economy comes back, I'm assuming that part of our growth and development may well be on... We've got a motel going in; there may be other B&B's going in and so on and I think it has potential for the future. But I certainly agree that we should hear from the people that are affected.

Seth Thompson: The other issue that might want to receive some thought at the next meeting would be the timing. For instance, right now we have people who come in and apply for a rental license; I believe it's by the first of January, this would be due February 1st, seemingly so that this gives them time to do their taxes at the end of the year; because this is what they're paying on it.

Councilwoman BETTS: The gross of it.

Councilwoman DUBY: Their income.

Seth Thompson: That's exactly right, but I didn't want those too far apart; since again you would have somebody come in and say I'm applying for a rental license and then they would need to pay within a month what they had from the year prior.

Councilwoman BETTS: I have a motion to table it until next month.

Councilman WEST: I'll second that, Mr. Mayor.

Mayor Newlands: Okay, we have a motion and a second. Any further discussion? We can still discuss this if we need to.

Councilwoman JONES: Yes, is this information going to be put up on the web site so that

people do have the opportunity to look at it and it becomes available?

Mayor Newlands: Sure, I can put it up. Yes, I'll put it up tomorrow.

Councilwoman Betts: That's the purpose of everyone knowing what's going on, I would just like to see that.

Mayor Newlands: I'll put it up on the web site. Any other discussion? All in favor of tabling this until July, because we need to get this in at budget time. Can you amend the motion to table this to July, please?

Councilwoman Betts: I'll make a motion to table this until the first of July.

Councilman West: I'll re-second that.

Mayor Newlands: We have a motion and a second to table the Gross Rental Receipt Tax Ordinance until July. All in favor say aye. Opposed.

Councilwoman Hudson: I'm opposed; I think we should have gone ahead with it tonight; so we'll look at it in July.

Mayor Newlands: Okay, it's worth \$200,000; I'm not going to let it go.

Councilwoman Duby: And it's the \$200,000 at the 7.5% rate?

Mayor Newlands: 6%.

Councilwoman Duby: 6%, okay.

Mayor Newlands: And that's just really \$1,000 a month times 300 homes times 6%; that's the ball park number I used.

- c. No parking both sides of Magnolia Street for the length of the parking lot

Mayor Newlands: If you look at the little map that I gave out, that's just from Google.

Across from the parking lot, we used to have the Getty Gas Station used to be there; so we had a driveway there. What's happening on Friday nights, is there are some really, really bad traffic problems just in that one corner and part of it is people parking as close to the corner of Union Street as possible. So we've been getting a lot of cars backing up there and Ms. Hudson gave out some pictures tonight, which give you a little bit of a visual, in case you're not by there at certain hours. She said there was a little road rage this week and I'm assuming the top picture is somebody turning onto Magnolia?

Councilwoman Hudson: Yes. The top picture; the car on the right is parked right on the corner and the SUV at the top is blocked; can't go any further, because there's traffic out on Union. The sedan on the left can't get in, because as small as that sedan is and the other cars, there's not enough space to get between the SUV and the parked vehicle; and the Farmer's Market Committee has a tent right there at the corner and we could hear cars honking their horns and people shaking their fists. The middle picture shows seven cars, including the one that is parked on the corner that go down to the intersection where you showed on the map. Mr. Howard mentioned that customers need space to park. First, historically, there was no parking there because of the gas station; there was an entrance into his business there, but also, these seven cars are not customer cars anyway, in this picture; they're vendor cars. For the first two months these vendor cars were parked on the grass; so it's not a savings in customer's space, because they found someplace else to park. As far as the vendors themselves, if you look at the bottom picture, from the tent pole over to the inside of the curb, there's enough space there to put that white truck. I measured it out and the Farmer's Market Committee could actually put those vehicles back on the grass, where they were the first two months, free up this space. I'm more concerned about pedestrian safety and congestion. This becomes a one lane street when cars are parked there; but also I have seen people with walkers, canes, coming between these cars; going out into traffic. I've seen parents with children going between parked cars. It is a safety hazard. It is terrible traffic congestion and I believe just from the corner down to the end

of that grassy lot, Tom Draper's lot, should also be No Parking, just as it's No Parking on the other side; not only for safety of the pedestrians, but also the safety of the people in the cars because it's terrible traffic congestion. So thank you for listening.

Mayor Newlands: I just asked Robin how long that driveway was in the gas station and he said about half the distance.

Councilwoman DUBY: I have one question. You said that these are vendor cars and trucks. Aren't most of the vendors parking back behind on the other end of the lot there?

Councilwoman HUDSON: They could be.

Councilwoman DUBY: It seems to me that vendor parking would be one of the easiest things to control; let the people who are running the markets, when they leave their trucks there, say no, there's no vendor parking. I'm not opposed to controlling all parking there. I don't care.

Mayor Newlands: I spoke to Mr. Crellin before and he said they are going to make provisions to move the vendor tents in a little bit so they'll have room to park the trucks. The problem is you're going to have cars then.

Councilwoman DUBY: Yes, I'm not saying that stops the problem. I thought I saw the vendors parked...

Mayor Newlands: It depends on the vendor. The inside vendors, some of them are there because they have their refrigerated trucks there.

Councilwoman HUDSON: For the first two months, these vehicles that were parked right here now were on this grass, because Pasquallini's, they're getting their stuff out of the truck as they're selling it; so they weren't even parked there to begin with. The seven customers have parked somewhere else. So this could be painted for No Parking.

Mayor Newlands: It's going to get worse as the season gets more congested.

Councilwoman HUDSON: And we get more vendors.

Councilman WEST: Mr. Mayor, can I make a suggestion? Anytime that you have activities in that lot, that you make it a No Parking Zone for the duration of that.

Mayor Newlands: The issue with that is having staff come in and put up signs, take down signs; who is going to do it.

Councilman WEST: All you have to do is get a sign that says when there is activity in this area, there is No Parking from Y to Z.

Councilwoman DUBY: It doesn't seem like that solves the problem, because let's say it's the Horseshoe Crab Festival and all the activities in the park, if people park there, because they can't find parking elsewhere, it is still going to cause the congestion and these kinds of problems, even though the activity isn't in that lot, it's across the way from the park. So if we're going to do it, we ought to do it generally, I think.

Seth Thompson: I would be concerned if we just used the term activity; I think that it's too subject to interpretation. I guess that's my one concern.

Councilwoman DUBY: I think it's either Parking or No Parking; because the street's equally narrow whether there's activity going on or not.

Councilwoman HUDSON: And they can still park farther down, it's just this one area that's real tight near the corner; from just that Draper lot; the length of the Draper lot; you know, where you come in behind the museum; just the entrance where you come in behind the museum.

Mayor Newlands: I would like to at first, just do part of this area, to see how it goes and then progressively look at it with the option of going 100 or so feet, if we need to.

Councilman WEST: Mr. Mayor you could go from the corner to where the driveway dips.

Mayor Newlands: That's what I was thinking.

Councilwoman HUDSON: I make a motion that we have No Parking from the corner to

where the driveway dips.

Councilman West: I'll second that motion.

Councilwoman DUBY: An interesting term, where the driveway dips, are we all clear on where that is; where the driveway dips?

Councilwoman HUDSON: That's all I wanted, was right to there, not all the way farther down, but just to where that driveway is. That's all I was asking for.

Mayor NEWLANDS: We have a motion and a second to paint the curb on Magnolia Street, on the north side, from the corner to where the driveway entrance of the Draper property is. All in favor say aye. Opposed. Motion is carried.

- d. Application from Keith and Donna Gordon requesting approval for a conditional use to operate a mail order business from their home located at 303 Chestnut Street

Mayor NEWLANDS: This is a home business and in our code, we're required to approve this by Council; which I think is a little excessive, that since there are no customers going to this establishment. I think there's one employee; there are no employees. Other than seeing UPS trucks arrive, more frequently than they would at other people's houses, you would probably never notice that there was a business going on, I would think.

Councilwoman DUBY: I have a question about this. It says that they bought the house because it was zoned Commercial and Residential; they at one point, moved their operations into a warehouse; now they want to move them back; but it says now it is no longer zoned Commercial, so how did that happen?

Robin DAVIS: I could probably let the Gordon's explain like they did at the Planning & Zoning meeting. They were under the impression when they bought the building, evidently the individual that had lived there previously had a Commercial business there. But no where in any of the maps that I have show it as being officially zoned Commercial.

Councilwoman DUBY: Ever?

Robin DAVIS: Ever. That's on our maps that I can see. I have the latest from 1974, or the last from 1974, and it still showed it as Residential.

Seth THOMPSON: Was there a prior Conditional Use?

Robin DAVIS: I do not see anything in the property file. It's probably like a lot of things that were done in town back then; it was just a home-based business and it was generally accepted back then.

Councilwoman HUDSON: Well my house at one time had two home occupation businesses in it. It's zoned Residential, but it had mail order business in it and it was home occupation; so just like this house, it may have had a business in it, but it was never zoned Commercial.

Robin DAVIS: Correct.

Councilwoman DUBY: Yes, that was my question, because I don't have any problem with this at all; it makes perfect sense to me. I just was curious as to how something suddenly that used to be zoned Commercial, suddenly became not zoned Commercial; but obviously it never was.

Robin DAVIS: Unfortunately, the Gordon's had to go through a Conditional Use because there is the definition of a home occupation which falls under a Special Permitted Use; which only requires Planning & Zoning approval. For this type of business is still, in itself, is probably extreme; but it has to fall under Conditional Use because the home occupation says you cannot store things; that's the definition. Since they are storing items at their home, that's why they have to go Conditional Use.

Seth THOMPSON: Just for the record, you've already hinted at it, but basically, the record needs to reflect, and you can do it through the Planning & Zoning findings; but that the

general welfare and the area around will not be adversely affected; there's not an issue of inadequate off-street parking and they won't contribute to a traffic issue. This won't somehow be detrimental to the neighborhood boundaries.

Councilwoman DUBY: And the reason that the Commission has placed this condition about renting space in a warehouse for the Christmas season is because they have too much stuff at that time of year to store it at your house and you're willing to do that? That's not a problem.

Robin Davis: Yes, that was one of the things that the Gordons agreed to.

Councilwoman DUBY: Mr. Mayor, I make a motion that we approve the request from Keith and Donna Gordon for a conditional use to operate a mail order business from their home, with the two conditions that the Planning & Zoning Commission recommended.

Councilwoman Betts: I second it.

Mayor Newlands: All right, we have a motion and a second to approve the conditional use of a mail order business at the Gordons' home. All in favor say yes. Opposed. Motion is carried.

- e. A request by Charles Zonko for an extension on the final site plan approval issued by Planning & Zoning for "The Orchards" project located on Mulberry Street

Mayor Newlands: Just as a matter of information for you all, this site plan was approved in 2006; never acted upon; the little chart in the back is the design of the 14 units that Mr. Zonko wants to put there. This is the left hand side of Shipbuilder's; and what Tidewater wants to do right now is build this driveway so they can get to the lift station in the back. They are looking for an easement from Mr. Zonko to put a driveway in. So they're starting the project, basically; and that's probably all that's going to get built for a couple of years, is the driveway; this is just so that they are not bringing a truck back and forth across the mud and other people's properties.

Councilwoman Jones: I have a question. In this explanation in the packet, it reads "Tidewater Utilities would like to use the entrance of the project as their access point." The next sentence, which isn't really a sentence, I'm not sure what it means; "An extension on the final approval for the project, as needed, prior to the finalizing of an easement agreement between Mr. Zonko and Tidewater Utilities." That is...

Robin Davis: The extension of the final approval on the project is needed by Council.

Councilwoman Jones: Is needed.

Robin Davis: Is needed; I'm sorry.

Seth Thompson: I gather, based on the way your Ordinances read, there's an argument that the approval lapsed; therefore, Tidewater doesn't want to agree to put in a driveway that isn't approved; is really the issue.

Mayor Newlands: Correct, that's correct.

Councilwoman DUBY: If Tidewater put the driveway in and then the project never happened, it wouldn't make any difference to Tidewater; right? They would still have the driveway to their...

Councilwoman Betts: That's what they need.

Mayor Newlands: Right, the issue is Mr. Zonko's not paying to have this parking lot put in and the driveway put in and in order for Tidewater to expend any money, they want an assurance from us that we're going to let them do it. They're actually going to make the driveway cut and put the driveway in; fix the street back up again and do all the things that are required to create this entranceway and then they're going to put gravel on the driveway.

Councilwoman Jones: So Charles Zonko had an approval for this five years ago and

doesn't expect that he will be able to improve, possibly within three to five years.

Mayor Newlands: Correct.

Councilwoman Hudson: I have a question. Tidewater and the sewer project and the lift station and everything, Tidewater is a private contractor. The owner of this property is a private developer. Why can't Tidewater and Mr. Zonko go ahead and settle an agreement; whatever Tidewater wants to pay Mr. Zonko for this easement and whatever Tidewater wants to do with that driveway and Mr. Zonko wants to do with that driveway and those two just go ahead and do that? What has that got to do with us giving an extension to Mr. Zonko for "The Orchards" project; because that's all everything else around it? Can't those two, Jerry Esposito, the President of Tidewater and Mr. Zonko; whether they extend the project or not, can't they just put in the driveway and get the easement?

Mayor Newlands: No, they would have to come back to us and DelDOT and get approvals for just a driveway. This is already approved, so they just want to build a parking...

Councilwoman Hudson: The approval is for the driveway?

Mayor Newlands: Right.

Councilwoman Hudson: What's that got to do with "The Orchards" project itself, that's three to five years down the road?

Mayor Newlands: If we extend this approval that existed before, then it doesn't cost them any money; otherwise they have to go back to square one and get approvals for a driveway; so they have to do engineering studies, go to DelDOT, expend a lot of money that is just for a gravel driveway.

Councilwoman Hudson: Okay, so if we give final approval for "The Orchards" project; an extension for the final approval on "The Orchards" project; then these two can go ahead and do what they need to do to get that easement done?

Mayor Newlands: Right and if the housing market turns around, it will boom tomorrow; he may build fourteen units, which is fine for us also.

Councilwoman Hudson: Thank you for answering my question because we sold the sewer plant and I was wondering how we were still tied into the sewer plant.

Councilwoman Jones: And if the Town does not guarantee this approval for another five years; what happens?

Mayor Newlands: We're just approving it now, so that they can get a building permit to open up and do this driveway.

Councilwoman Jones: No, didn't they receive approval five years ago?

Mayor Newlands: But they expire.

Councilwoman Jones: Understand, but you're giving an approval now for something that may take another five years to come to fruition.

Mayor Newlands: We're giving an approval now so that they can start the project and the extent of the project is putting in a driveway.

Councilwoman Jones: They, being?

Mayor Newlands: Tidewater.

Councilwoman Duby: And we're also giving Zonko an approval.

Councilwoman Jones: We're also giving Zonko an extension on something that is already five years old.

Seth Thompson: You can put a time limit on it. In fact, I think the Town has done just that.

Mayor Newlands: They expire annually anyway; they expire every year.

Seth Thompson: If I'm not mistaken, Robin, I think it's substantial construction, is that the standard?

Councilwoman Duby: So we've given him five extensions?

Mayor Newlands: No, we haven't given him any.

Councilwoman Betts: No, this is the first.

Councilwoman Hudson: So can we give like a one year extension, so they can get the driveway built?

Mayor Newlands: It's one year by Code right now.

Councilwoman DUBY: So, in other words, any time in the last four years, if Mr. Zonko had had the means to do it and wanted to go in and start these units, he would have then come back for an extension, because he never got one.

Mayor Newlands: Correct. That's correct. And there's nothing that's changed in this layout; there's nothing that's changed in our Code, where we would force him to do anything different.

Seth Thompson: But if he wanted to do something differently, then he would have to come in and file for an amendment, right?

Mayor Newlands: Yes.

Councilwoman DUBY: So what we would do is give him a one year extension of this approval; he would then turn to Tidewater and say it's okay for you guys to build the driveway

Mayor Newlands: Right and they will do the entranceway the way a normal entranceway would be done, per the plan, with sidewalks put back properly; blacktop in the beginning of it; so it all looks fine and then when they get so many feet in then it goes from blacktop to gravel to a _____ run and Tidewater has agreed to maintain it and keep the grass and weeds and stuff down.

Councilwoman Jones: Just one more time. Actually, Mr. Zonko's approval ran out four years ago; but he's not being required to come back with new studies at this time to request an extension of an approval that's run out. So, the question is, is there anything new in the lapse of four years since the approval was granted? This is dead in the water; he couldn't do anything on this project at this time. Is that not correct?

Mayor Newlands: That's correct. But that's the thing, we haven't changed anything to cause him to redesign this.

Seth Thompson: In essence, I think what you're asking and correct me if I'm wrong; would this plan, if he came in today, meet our Code? Is that your point?

Councilwoman Jones: Right, today, would we pass the same thing they did in 2006 for development of those fourteen pieces of property?

Mayor Newlands: Yes. This meets our current code. The extension he's proposing now meets our current code.

Councilwoman Jones: Okay.

Robin Davis: The last update to the Zoning Code was done in 2004. This project was approved in 2006; so nothing in the Zoning Code has changed from that point.

Councilwoman DUBY: I will make this motion, because I think we can probably dispose of this; but I want to make it clear when I make this motion, that I have some concerns and the only reason I'm making this motion as confidently as I am, is that we're giving him one year and he has said that he believes he will get back to building his part of this, within three to five; because I think there are probably things that we would want to look at, given all kinds of issues that have changed since 2006. I understand this meets Code, but there may be other issues that Planning & Zoning and the Council would like to look at and I'm reasonably confident that the economy is not going to change so much overnight to his estimates that it's going to take him three to five years will change to one year; so I move that we approve the request from Charles Zonko for a one-year extended approval of this project.

Councilwoman Betts: I'll second that motion.

Mayor Newlands: We have a motion and a second to approve the Charles Zonko extension for his sub-division plan. All in favor say aye. Opposed. Motion is carried.

- f. Edge Academy of Martial Arts weekly program for families on Saturday evenings throughout the summer from 6 to 8 p.m.

Mayor Newlands: The Edge Academy of Martial Arts wants to have a weekly program in the Park on Saturday evenings, from 6 to 8 p.m.

Councilwoman Duby: Mr. Mayor, if I could refer Council to the Parks and Recreation Committee Report that was back in the beginning of your packet, under Committee Reports, the 3rd item in bold at the end of the paragraph is what the Parks Committee is recommending. Michael Chamberlain is the owner and I don't think he's here, is he? No. He's the owner of the Edge Martial Arts Academy that's down in the group of stores where Vintage Cafe is and he is offering, very generously, I think; to provide at his expense and he will not only pay for the equipment and be there himself to do this, but also his insurance covers it and he also is going to provide publicity for it; on Saturday evenings throughout the summer in the area in Memorial Park that is on the inside of the train tracks. He wants to have a free weekly program for families where there are lawn games, bowling, kick ball, martial arts demonstrations. He'll provide the safety pads and mats and so on; to provide entertainment and promote fitness and family wellness in town. He would like us to approve that use of the park and he could, of course, just have gone to the Town and said he needed a permit every week to use the Park. He would like to have a little bit more of an endorsement, I think, from the Town for this and I think it's wonderful that a local business owner is willing to do this, particularly in a town where we often hear complaints, I think quite legitimate, that there's not a lot of stuff for kids to do in the summertime and so on. The Parks Committee was very enthusiastic about accepting his offer and we are recommending that the Town Council approve this use of the park.

Councilwoman Betts: Councilwoman Duby, could you tell me, have you checked to see if there's any activities during the summer from 6 to 8 in the Park?

Councilwoman Duby: In the park? I don't believe there is. Obviously, there will be activity, people will be there, using the facilities.

Councilwoman Betts: No, what I meant, in case with the train, has there been an activities scheduled for the train to be running at that time?

Councilwoman Duby: The train occasionally has rentals, according to Don Collier, who is the main person who does the scheduling of rentals for the train. He rarely, if ever, has anything between 6 and 8; and he would, if this passed, he would not schedule them for that time period. Usually the train rentals are during the day.

Councilwoman Betts: He will check to make sure there isn't anything scheduled.

Councilwoman Duby: He's already checked and he did not have anything scheduled. He said, I rarely even have requests for during that time period; it's almost always kids birthday parties during the day.

Councilwoman Betts: Okay thank you.

Councilman West: Mr. Mayor, I second that motion by Councilwoman Duby.

Mayor Newlands: Was that an official motion?

Councilwoman Duby: It wasn't an official motion, but I will make one on behalf of the Parks Committee that we approve his request. We can still discuss it.

Councilman Lester: I have a question about this and this is in regard to the insurance. Apparently he was asked if he had coverage. I think we need to have coverage with the Town named as a Payee and talk to our insurance coverage right now and make sure that it's an amount that's reasonable. I know the Farmer's Market had to provide half a million

dollars in the name of Loblolly Enterprises. That's a consideration, because these jujitsu arts or whatever, I'm behind the times, but people get hurt.

Councilwoman Duby: He has coverage and granted, it's not with the Town as a Payee; he has coverage that covers him and his activities off-site; not just in his martial arts studio and that insurance was provided to Seth for review and Seth you may want to talk about it.

Seth Thompson: It was a General Liability policy that included physical activity participants for \$1 million. Again, it doesn't name the Town as a Payee and there's no indemnification or anything of that sort.

Councilman Lester: My only concern was that the Town be protected and last month we spent more time worrying about the train station; that special meeting we had; about the train station accidents that may or may not happen. This one we're kind of breezing it by. I just want to make sure that we get all...

Councilwoman Duby: I don't think we're not breezing it by, that's why we asked him to provide it and that's one of the issues to be discussed and that's why the train is coming back.

Mayor Newlands: He's not teaching martial arts, at all; this is just games and stuff, aren't they?

Councilwoman Duby: He said martial arts demonstrations. I don't know whether he would actually teach kids to do it; but it is certainly not beyond the realm of possibility that there would be kids engaging in that. If he was making demonstrations and some kid wanted to try it or something; I don't know; I wish he were here; I thought he would be here to discuss it.

Councilwoman Betts: Do we have a copy of his insurance?

Councilwoman Duby: Yes, he submitted it. Seth has it in Town Hall.

Seth Thompson: I have the proof. I didn't see the entire policy, but I have the certification that he has insurance.

Councilman Lester: If you have Council's assurance, that's a comfort.

Councilwoman Duby: I move approval of Michael Chamberlain's request to use Memorial Park inside the train tracks on Saturday evenings during the summer between 6 and 8 p.m. for family fun and fitness activities.

Councilman West: I second that motion.

Mayor Newlands: We have a motion and a second to allow Michael Chamberlain to use the park on Saturday evenings for fun activities. All in favor say aye. Opposed. Motion carried.

14. Executive Session: Discuss Personnel Issues, Litigation and Land Acquisition

Mayor Newlands: Can we get a motion to go into Executive Session?

Councilwoman Duby: So moved.

Councilman Betts: Second.

Mayor Newlands: We have a motion and a second to go into Executive Session. All those in favor say aye. Opposed. Motion carried.

Mayor Newlands: Can we have a motion to come out of Executive Session?

Councilman West: I make a motion to come out of Executive Session at 9:40 p.m.

Councilwoman Duby: Second.

Mayor Newlands: We have a motion and a second to come out of Executive Session. All in favor say aye. Opposed. Motion carried.

15. Adjournment

Councilwoman DUBY: I make a motion to adjourn at 9:40 p.m.

Councilman West: Second.

Mayor Newlands: We have a motion and a second to adjourn. All in favor say aye. Opposed.
Motion carried. Thank you all.