

Milton Town Council Meeting
Milton Library - 121 Union Street
Monday, September 13, 2010
6:30 p.m.

[Minutes are NOT Verbatim]

Recording Secretary: Helene Rodgville

1. Public Presentation – State Auditors Office will present Initial findings of the Town’s Account practices and systems

Mayor Newlands: Our first speaker, who is a lady named Kathleen O'Donnell; she’s not here yet, she’s from the State Auditors Office; we think she may have gone to Town Hall, so we have somebody going to check. We’ll start Public Participation at this point; so we’re going to flip these two items around.

2. Public Participation

- a. Virginia Weeks, 119 Clifton Street: I see that you’re going to try and pass the budget tonight and I looked and looked on the website and couldn’t find it. I presume you’re not working off the paper that was shown to us on July 29th; is it the same budget that you’re working off of?

Mayor Newlands: It’s pretty much the same.

Virginia Weeks: But you didn’t post the revisions, or anything, so we could look at them?

Mayor Newlands: No.

Virginia Weeks: Thank you. Second of all, I would like to talk to you about the Code Enforcement Officer. I don’t know if you’ve noticed, but riding around Town, Town is getting to look a little shabby. You guys, two of you anyway, come out of Lavinia Street every day, at least once a day, and you look at Myron Burton’s parking lot with weeds this deep; and nobody has done anything about getting them cut. There’s a house on Chestnut Street that looks like the jungle has taking it back over and Casa San Francisco has weeds this high in its lawn and planters. You used to get a letter telling you to get it cut. The Christmas lights; I’m in there for the Christmas lights; the Christmas lights cost \$1,500; the Police overtime, between regular and holiday is \$57,500; you think we could reduce that to \$56,000 and leave the Christmas lights on for the kids or the Holiday lights on for the children? You think that’s a possibility? And another thing I would like to just I would ask that you make sure that sometime during the evening the Attorney might answer this question for me. I realize you want to take the No Parking away from one side of Wagamon’s on the side streets; I really don’t care whether you have parking there or not; what I’m concerned about is, I believe those streets, if I’m correct; that the No Parking was put on because the streets do not meet the Town’s Standards. If they don’t meet the Town Standards, are

you empowered to ignore the ordinances of the town and allow that when a meeting had been made to rectify that by allowing it with No Parking? I just want to know who's got the powers; or for a variance from the ordinance, does it have to go to the Board of Adjustment, which is a quasi-judicial group and if they don't like their answer, then go on to the Courts? I have never been someplace where the Council can just override ordinances when they want; so I would like an answer to that. Thank you.

Mayor Newlands: Thank you. In regard to the grass and things, we are behind; we know about 420 Chestnut Street; we know about a couple of the properties; we're just behind in getting our letters out.

Virginia Weeks: Well I know that you're thinking about not having a Code Enforcement Officer and I really think we need it.

Mayor Newlands: We have others chipping in to do that job right now. Thank you. We're trying to keep everything to 3 minutes please.

- b. Alex Donnan, 103 Pine Drive: I just want to give out a notice on behalf of the Milton Economic Development Council for the meeting on the 23rd; that's been posted already; so the publisher knows about it. Coming up in October on the 19th, 20th and 21st, the branding project for Milton will start. That's a project that has been funded by the USDA through the Delaware Development Office and it will be 2-1/2 days with a series of meetings to do a branding survey for the town; which will cover photography, organization, community system, many things that will identify the town more clearly in terms of signage, in terms of materials that the town uses and focus the town's direction. So that's the purpose of it and it is being funded by USDA. The exact times and the exact people will be noticed before those dates; we don't know that information yet; chances are it will be here; but there is a stakeholders meeting, so the public can come if they wish, but it's really focused to get representation from all areas of the community and that will happen within a couple of weeks.

Mayor Newlands: Thank you.

- c. Ed Henry, 109 Morgan Way: I'm coming before you as the elected President of the Wagamon's West Shores Civic Association, which is 51 households that I represent; and the other households in Wagamon's West Shores, I am not an elected official, but I can speak for some of our neighbors. We sent a survey in anticipation of this meeting to every resident in Wagamon's West Shores asking them if they were in favor or against the parking restrictions that you are considering tonight and also the signage that you would have to be putting up. In order to save time, I have given you a copy of a sample of some of those responses. By an overwhelming of a 10:1 ratio, our neighbors were against these restrictions and this signage and that's what I'm reporting to you tonight. I would also like to read to you one of the responses that I got from one of our neighbors that is only going to take me a minute; but I think this gentleman pretty much nailed when he answered it this way, "We don't want no parking signs on these streets. With houses on both sides, for the

most part, two car garages and driveways capable of holding four vehicles each, who needs no parking signs? And how are the owners on the other side of the street going to feel about being favored when one side is told that they can't park on one side of the street? After four years we have been living here, we've had virtually no occasions where any significant number of vehicles were parked directly opposite each other on both sides of the streets; and again, none ever at night. Let the homeowners manage their own parking here and please tell the regulators to leave us alone." I let him leave that in there, because when I spoke to him to get his permission to use that letter tonight, he said that was my gut feeling at the end. Let me soften that a little bit. Wagon's West Shores is a community and it is about 4-1/2 years old. Most of us came from out of state to move here. Most of us came from very urbanized areas, such as New Jersey and Pennsylvania and myself, Maryland. But we were looking for a small town and a small town America and we found it here. The one thing I like about the people that are sitting in front of me right now; is this is not red states vs. blue states, this is our neighbors, we see you guys at Food Lion; we see you at the Concerts in the Park; we see you at our Churches; and we see you at the restaurants in town. You're our neighbors and we are your neighbors. Please do me a favor tonight; please use your common sense and don't ask us to have something that we don't want; and we've told you through a survey; we've done all of our due diligence to present this to you. Thank you for your time.

Mayor Newlands: Thank you.

- d. Marion Jones, 409 and 411 Behringer Avenue: With the Economic Development Committee getting ready to meet, I just wanted to bring a couple of things to your attention. I think in order for business to be pleased with Milton, Milton should present itself in a very smart and savvy way. I've been to the microphone several times about the website. Without policy, it's a shoot match on what gets on the website and what doesn't. There is still the notation that the Mayoral term is for two years. The Charter was passed in March of 2008 that made it three years. I don't know if we need a press release for a water main break that happened in February. Do we need the 2010 Municipal Election results? Under upcoming events it states there are no events to display at this time, but it then goes on to say Bargains on the Broadkill; town wide yard sale. I believe that your website is your business card and I personally believe that needs some improvement. Second is a public safety issue and in order for you to understand what I'm talking about, if you would put yourself at the intersections of 5 and 16; in all three directions, except for Route 5 north, the intersections are not being used as they are designed. There are no turn lanes that allow you to get into the right hand lane and turn, even though the car ahead of you is trying to turn or go straight. So when you are at one of these intersections, except for the Union Street intersection going north, because there is not enough room to get around you; you're trying to turn or go straight and you are now dealing with two lanes of

traffic. Those intersections are not set up for that and I believe it is highly illegal. You can pass on the right when there has been an improvement or there is a turn leg indicated; but the police sit on that intersection constantly and I'm looking for an opinion; maybe some statistics about accidents at that location, but if you are heading, let's just say westbound on 16 and you want to turn onto Union Street, left, you not only have to deal with the car coming east on 16, you have to deal with the car who is trying to get around it on the right hand side.

Mayor Newlands: And the car that's trying to get around it on the right hand side is doing it illegally, because there is a sign there coming that way saying there. I'm not defending everything that you said.

Marion Jones: He's either going to turn right or he's going to come straight through the intersection.

Mayor Newlands: On one of those streets, you're not allowed to pass on the right; actually on 16 going east.

Marion Jones: I haven't seen any of those.

C Abraham: On 16 heading east it says it by the antique store.

Mayor Newlands: By the antique store.

Marion Jones: But some enforcement might be helpful.

Mayor Newlands: Okay, we'll take a look at that and the website we'll take a look at, when we get a chance.

Marion Jones: Thank you I appreciate that.

- e. Kathy Potts, 104 Oysterman Drive: My question to the Council is under Jack Bushey's term they had a \$4 million surplus; and today we're down to \$1 million; have you guys been able to produce a spreadsheet that we can all look at that makes sense; that tells us from that time until now where all that money has gone? What buckets it went into? We have receivables coming in and expenses going out. How can we read the budgets that we've been getting through these meetings? It doesn't actually tell us in each category where this money is coming and going.
- Mayor Newlands: We can start putting something together; actually I've started putting something together; we used it at one of the last Council meetings, so I can get more details if you look, as to what has happened over the last four years.

Kathy Potts: Can you put that up on a spreadsheet and put it on the website, and people can download it and print it off and see where the money has gone?

Mayor Newlands: I'll bring it before Council first at the October meeting, before we publish it.

Kathy Potts: Okay, because it's hard for us, as citizens, to understand where we're going, if we don't know what's been happening.

Mayor Newlands: Right and I understand.

Kathy Potts: And my second part is, at some time I guess we paid cash for this Administration Building.

Mayor Newlands: Yes.

Kathy Potts: Can I ask why that was done and why it wasn't amortized over a 15 or 20 year mortgage? A good business decision, commercial real estate, you buy it; you bought a building; it's gone down 20-25%. My questions is, if that had been amortized over 15-20 years, you would have appreciation, depreciation and you have already lost money, as it is?

Mayor Newlands: You can't ask me. I didn't do it.

Kathy Potts: I guess these are questions as a town that we need to have some answers to. Thank you.

Mayor Newlands: Thank you.

C Duby: Can I ask you a question? What's the source of the information that there was a \$4 million surplus under the Bushey administration? I've never seen that figure.

Kathy Potts: I've heard from the past. Leah, you were here for those years; what was the surplus after \$4 million?

Vice Mayor Betts: There was a surplus, but I can't tell you; I've been asleep since then. I can't tell you exactly what it was.

Kathy Potts: It was about \$4 million. But you guys should know what it was also.

C Duby: That's why I'm asking the question. I'm not aware of what... I've seen figures of what the budget was at that time; but I've never seen a \$4 million figure.

Kathy Potts: How much was in the bank account? What did the town have back under Jack Bushey? And where are we today? I think that's a solid good question to know where we are.

C Duby: I do too, that's why I'm asking you the question; because in everything that I've seen about it, I've never seen the figure of a \$4 million surplus.

Kathy Potts: Yeah, and I've heard that number thrown around. All I'm saying is that is what I'm hearing; that's why I'm asking for a quantitative analysis on it.

Mayor Newlands: Actually Jack Bushey used that figure when he left office and there is some documentation to the fact that there was about \$3.9 million in the savings account. That's combined with some of the Sewer Impact Fees that became general funds, so those numbers are pretty close.

Kathy Potts: That's a big drop from \$3.9 million to \$1 million. That's a lot of money that went bye-bye.

Mayor Newlands: Thank you. All right, we're going to close Public Participation right now.

3. Call to Order: Mayor Newlands called the Town Council Meeting to order at 6:45 p.m. Our speaker is still not here. We're not sure what happened to her.
4. Moment of Silence: Vice Mayor Betts
5. Pledge of Allegiance

*The Council minutes provided are a summation of the meeting to be used for informational purposes only. An official copy of the meeting can be obtained through Town Hall located at 115 Federal Street by filling out a FOIA Request and paying any cost associated with the request.

6. Roll Call:

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| C Lester | Present |
| C Martin-Brown | Present |
| C Duby | Present |
| C Abraham | Present |
| Vice Mayor Betts | Present |
| Mayor Newlands | Present |
| C Prettyman | Absent |

5. Agenda – Additions or Corrections

Mayor Newlands: Are there any additions or corrections to the Agenda? Item 14c has been removed from the agenda. Cannery Village the Applicant asked that it be removed; we don't know why, but they just asked us to remove it for this evening. Are there any other changes?

Vice Mayor Betts: I make a motion to accept the agenda with removing Item 14c.

C Abraham: Second.

Mayor Newlands: We have a motion and a second to amend the agenda. All in favor. Aye. Opposed. Motion is carried.

6. Discussion on Written Committee Reports;

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

Mayor Newlands: Let's go through our Committee Reports and see if there are any...

C Duby: Mr. Mayor may I ask why we don't have minutes of the previous meeting?

Mayor Newlands: Oh yes, our transcriptionist was out for a few weeks; she was unavailable to get some of the minutes for us and also she has a volume of minutes now with all of the workshops. So I think at the next meeting, we'll have quite a number of things to look at. We have Planning and Zoning minutes from Lynn Ekelund. Does anybody have any comments on that? I do have a question on the Cannery Village one item, 1b Robin? On the approval for Cannery Village, where there is a conflict between the DelDOT and Town Standards I guess it is for the curb heights. I just want clarification for Council and maybe others of the audience to know that there is a difference between DelDOT Standards and Town Standards; just that things may look a little different; when that intersection gets done. This is over by Cave Neck Road where Front Street meets, right?

Bob Kerr, CABE Associates: Robin kind of handed me the mic. The Town Standard for curbing is an 8" height; DelDOT because of the 35 mph speed limit in that section now; wants a 4" high curb; and some other changes in things. DelDOT is also requiring the developer to resubmit the plans for that area, so rather than hold everything up, because DelDOT said it could be 6-9 months before they gave their final approval; it was determined that we would work those out before construction would actually begin in that area.

Mayor Newlands: Okay thank you. I don't have any other questions on that; does anybody else have questions on Planning and Zoning's report? The Historic

Preservation Commission Reports: does anyone have any questions on those reports?

The Town Maintenance Report: Allen, you wrote down that you did cold patches by

the boat docks. Do you know what the schedule is yet; have we gotten information from DelDOT on when they're going to pave that boat area, the ramp?

Allen Atkins: I haven't heard anything recently on that.

Mayor Newlands: It was supposed to be this year though, wasn't it?

Allen Atkins: It was supposed to be this year, but they kind of got back tracked on that for some reason.

Mayor Newlands: Okay thanks. Oh, just for Councils knowledge, under Streets on page 2, Allen met with a company called Tideflex and they have a check valve that can go into the pipe that solves the current plumbing problem as we see it right now; that's not budgeted and its \$2,800, I think, right?

Allen Atkins: Right, hopefully that will solve that.

C DUBY: Did you say in the Park?

Mayor Newlands: The parking lot on Magnolia Street.

Allen Atkins: It's a temporary fix, instead of replacing the pipe; there's a storm drain manhole that's right behind Bodie's; we can insert it in that; if not, we would have to take the whole section out under Governor's Walk and take it out and replace all that; this should cure the problem. What has happened is the pipe has been there many years and it's eaten out at the end of the pipe and you can't get back in there far enough to patch it up.

Mayor Newlands: This lets the water flow towards the river and not come back into town. We have a Code Report and the Project Coordinator's five page report. There was a nice lengthy report tonight. Let's just finish all the reports and we'll do the Town Manager's Report. Does anybody have any questions on any of the reports? I went through Public Works, Project Coordinator and Code.

C DUBY: I have two questions on the Project Coordinator/Code Report. I noticed there is an item in here about stormwater damage at Shipbuilder's Village; what is the status; has that now fixed; have we done it all now that we finally got the easement and everything? Or is it still in process?

Robin Davis: The stormwater drainage out at Shipbuilder's Village has been corrected and we have received the letter from CABA Associates.

C DUBY: And the other question I have is the pages aren't number, but it is the back of the third page, at the bottom on a Comp Plan Update; and I just wondered; I couldn't tell what this referred to; are we starting the process of updating or is this sort of loose ends from what we've done already?

Robin Davis: Yes these are the loose ends that we're finalizing everything for the State. We've made some minor corrections and I've got to send the response back up to Brian Hall from the State who is going to send it to the Governor for approval.

C DUBY: Okay, because I would like to see, on an upcoming agenda, as soon as possible the issue of beginning the next big process; as there is an awful lot and I don't want us to get caught doing it at the last minute again.

Mayor Newlands: The funding is the biggest issue with that.

C DUBY: It doesn't cost a thing for us to talk about it.

Mayor Newlands: I know. That's fine. Also, along with Shipbuilder's Village, there's some curb work that has to be done out there and then final paving in some sections out there, since that storm drain has been done. Does anybody have any

comments or questions about Code or Police Reports? We're a little bit out of order right now, so we'll do the Town Manager's Report now.

7. Town Manager's Report

Stephanie Coulbourne, Town Clerk: There are a couple of things to bring to Mayor and Council's attention. The trash contract, which you know you approved at the last Council Meeting, has been sent from Mr. Kerr's office to our provider, M-T Trash, who is our current provider. The pricing for that contract from M-T Trash, was the lowest price; however, it is higher than the amount that we charge right now. The current cost to residents per quarter for the rate of \$44. In order to cover the cost for the new contract, the rate would have to be increased to \$47 per quarter, which is a \$3 increase; \$12 for 12 months. The next item was the Delaware Department of Insurance, Workplace Safety Program. Allen and I have completed the application process for that; which we will submit next month, along with the check to pay for it; which has increased a little bit. It's either a \$500-600 for them to do the inspection of the police station, the maintenance building, Town Hall and the well house on Chandler Street. So far, we've always passed that inspection and we've gotten a 16% credit on our insurance, so we've started that process for the next year as well. That has to be completed five months before the insurance is renewed in March. The next item was the contract for the Energy Audit that I had reported in the past; \$35,000 was approved for the Town of Milton. The Mayor has signed that contract and I've forwarded it to DNREC for the Secretary of DNREC's signature. Once that is complete, the Town can start looking for contractors to complete the items that were identified by the Energy Auditor. There are contractors that they are recommending. The next item on the list is the Finance Director, Jennifer Cornell, has resigned from her position, effective Friday, September 10th. She has taken a position with a private accounting firm. The last item is that Staff has been meeting with several vendors that supply office equipment, copiers that could help us with our postage and folding and billing and we're just trying to get various quotes from these vendors to see where we could cut costs in the office. That's it.

Mayor Newlands: Thank you. Our representative from the State Auditors Office is here now, Kathleen O'Donnell.

Vice Mayor Betts: Can we accept the report?

Mayor Newlands: We don't normally do that.

Vice Mayor Betts: I'll make a motion to accept the written committee reports and the Town Manager's report.

C Duby: Second.

Mayor Newlands: We have a motion and a second to accept the written reports and Town Manager's report. All in favor aye, opposed, motion is carried.

1. Mayor Newlands: Right now we have Kathleen O'Donnell from the State Auditor's Office. She's going to present initial findings of the Town's accounting practices and systems.

Kathleen O'Donnell, State Auditors Office: Good evening. Your state auditor, Tom Wagner asked me to send his regrets. He wanted to be here to present the RFQ that I brought for the Council to review. We have met with the Town a little while back

and looked at some of the accounting records and some information that's been generated from some of your prior audit reports and as a result, based on some information that we saw there and some concerns about issues in the trial balance that was generated at that period of time, we came up with a recommendation to go out for a consultant to assist the Town with shoring up your records; your accounting records; and insuring that your instance of your accounting system is properly functioning; and this should help you with now only your historical accounting perspective but also ensure that in the future you don't have any unpleasant surprises. So as such, we've brought today an RFQ and what our office, Tom, has agreed to assist the Town with putting the proposal out for bid. It's a limited process; it's not a full blown Request for Proposal Process; because we're anticipating the cost to be under \$50,000; so we'll follow the State bidding rules. We'll put that out on behalf of the Town and you won't have to go through the legal process; you won't have to deal with legal concerns; because our office will provide that. What we normally do is once we finalize the RFQ, we'll put that out on a public website; our public website for two weeks; announce it in the newspapers; and also we can provide an electronic copy of that for the Town to post as well. We will get proposals that will come in; we will have a technical component that talks about how they can best provide assistance to get the town where it needs to be and there will also be a separate component that's the cost. So we'll open those up separately; they'll be evaluated separately; because you want both quality and you want to minimize the cost. Then as such, our office will come back with a recommendation that we anticipated bringing back to your Council Meeting, I believe it is October 4th.

Mayor Newlands: Yes.

Kathleen O'Donnell: Also, I wanted to just describe to you in very general terms what we're looking for as far as one of the major issues I noticed was a lack of written policies and procedures. So we want this organization, this consultant, to come in and provide you with written structure on how to proceed to ensure that you safeguard the assets of the Town; and that no one person would have control over your accounting records and more importantly your cash, and your assets. So that's another attribute that's listed in the Request for Proposal.

Mayor Newlands: I'm going to let Norman take over; he's a lot better at this, than I am.

C Lester: Kathleen, could you just describe or give us your opinion of the documentation that you've looked at so far.

Kathleen O'Donnell: Some of the things that I would call "red flags"?

C Lester: Yes.

Kathleen O'Donnell: Sure. I didn't want to bring a whole litany of things out of the trial balance, but a few examples and I'll try to break it down in layman's terms. For example, when you see Accounts Payables, in accounting terms, it should have a particular account balance, which is a credit balance; and that represents an account payable. Well your trial balance was showing the complete opposite. So as a classically trained auditor and accountant, I say, oh, that doesn't look right. So when you go through your whole trial balance and you keep picking up these anomalies and then you look at certain things that I'm not going to say were necessarily wrong, but they looked a little bit suspect and it wasn't clear to me; and I've even since then

gone through the Edmunds Manuals and looked at things like suspense accounts and they kind of appear to have the nature of more or less a plug type nature to it. I can't conclude that and that's why you need someone to take a look at it. But as an auditor, I would call it a "red flag" so you know I would suggest you have someone take a look at it. You've got a two-part issue and that is your historical fiscal year that you've just finished and then you have your moving forward perspective. So if your instance of Edmunds isn't working right; you're just going to perpetuate the errors; and that really from my experience and working with local governments; and I've been doing it for quite a while; that's my biggest concern; is that if you don't get a good fix that shores you up for moving forward; because I think we're all in agreement that most all of the governments, at every level, are really strapping in for hard times; it's going to be a while before we come out of the situations that we're in fiscally. So you need that shoring up of the accounting records so that you know what to anticipate a little more consistently and you should be able when there are variations in your revenue streams and stuff, anticipate what that's going to do to your overall financials.

Mayor Newlands: Now it's not the software itself; it's the way we're using the software and our setups of the software.

Kathleen O'Donnell: Yes, that's correct. In technology terms we call it the "instance". So in other words, your counterpart down the road could be using Edmunds as well and everything's moving along just fine; they're getting their budgetary and actual reports coming out and everything's going well. But your instance here in the Town is not properly functioning.

Mayor Newlands: Now we did have a \$1.3 million amount in the suspense account from last year, is that correct? At the meeting we had when we sat together, we saw that.

Kathleen O'Donnell: When I was looking at it, March 31st was the time period that I had looked at it and yes, that's where it was.

Mayor Newlands: So that was from last year?

Kathleen O'Donnell: That was in mid-stream; you would have been at March 31, 2009.

Mayor Newlands: I just thought it was last year.

Kathleen O'Donnell: 2010, I'm sorry.

C DUBY: May I just ask a few definitional questions for people who might not be as familiar with terms as you are?

Kathleen O'Donnell: Absolutely.

C DUBY: Would you explain what a trial balance is? Could you explain and define the term "plug", as you used it? And also "suspense account"?

Kathleen O'Donnell: First of all the Trial Balance is a little bit easier. That's your standard, everyday set of records; before you generate financial statements. One of the nice things about an application like Edmunds is, if you do those daily entries and you do some of your adjustments and it is originally set up properly, each month you can close out your Trial Balance; you'll do some reconciliation to cash. Now what the Trial Balance is is all of your assets, liabilities, all those different accounts that eventually feed to your Financial Statements when you close and so each one of those account has a debit or a credit natural account balance and that was a term I used

earlier. So when you go down and look at that Trial Balance, there are certain things as a trained accountant or an auditor or even a fiscal person; you're going to look for and they'll jump out at you if they're a little bit unusual. One of the things is, and I can't tell for certain; but there was one particular suspense account which was rather large. And from looking at the Trial Balance, I can't tell what you're doing with that suspense account. I looked in the Edmunds Manual; there's no explanation for what that is; there may be an adequate explanation; there may be justification; but it's something that as an auditor; I would look into.

C DUBY: Is a suspense account a place where you hold something on its way to where it's actually going to go; or what exactly is a suspense account?

KATHLEEN O'DONNELL: Traditionally, a suspense account is used in more of a manufacturing or cost accounting approach; and you may have something behind the scenes going on; but it's not clear to me from what I've seen in your final Financial Statements. I'm not seeing anything that would generate such a large suspense account. So I'm not sure what the activity is.

MAYOR NEWLANDS: They generally should be zeros, shouldn't they?

KATHLEEN O'DONNELL: I wouldn't anticipate the Town using suspense accounts, particularly at that large of a sum. I can't tell you if it is right or wrong; I recommend to you that you have somebody take a look at it.

C DUBY: Are you concerned about it, because it's sloppy bookkeeping or are you concerned about it because you see some impropriety or fraud or something like that, that might be connected with it?

KATHLEEN O'DONNELL: Those are assessments that you need to have someone come in and spend a little more time. I can't make that kind of evaluation with just a few hours. I'm suggesting that you take a close look at it, based on your findings and your Financial Statements; you do have some issues that need attention; it was mentioned by your auditor that there was some attention needed to some of the accounting situations. I'm also concerned for the Town, because you don't have any written policies and procedures; so there is nothing to memorialize if someone does the bank reconciliations; do we make sure that they're not doing the deposits and they have complete control from beginning to end. Those are some of the concerns that I believe the Town would benefit from an evaluation. It will help you monitor the activity and then your eventually, when you get your audit done; that's the benchmark that the auditor will go against. You can say to them, are you can say to them, are the fiscal people following our written policies and procedures? You can ask more specific questions about your expectation.

MAYOR NEWLANDS: Now you're talking about two separate types of audits. A forensic audit first; which is what you're talking about now; to go back and look in and dig into the numbers and make sure everything is...

KATHLEEN O'DONNELL: I haven't characterized it as a forensic audit. It's more of consulting work. It does have forensic attributes to it, though. Defining a forensic audit; there are no clear cut standards out there; but I drove the consultant towards is giving you as management, they are going to do work on behalf of the Council and management in the Town, to ensure that you have controls in place.

MAYOR NEWLANDS: And that's going to be something separate and distinct from the regular annual audit that we're going to have done.

Kathleen O'Donnell: That is correct.

Mayor Newlands: And the annual audit is going to be done by the State this year, or, how are we doing that?

Kathleen O'Donnell: I think we want to make sure that we provide assistance to the Town because, obviously, Tom has agreed to invest a lot of resources in this and it's out of character for us to do this sort of work; but I asked that question before I came here and he said that we won't pull away from the Town. What kind of assistance you need at that point; whether or not you need an audit done by our office or whatever; we'll talk about that as we progress; but we would first like to see you get someone to come in and shore up your policies and procedures. If we came in right now, I can tell you that because you lack policies and procedures, the results of the audit would not be good.

Mayor Newlands: Okay.

C Martin-Brown: Thank you, this is very helpful. As part of the work, are you going to provide written policy and guidance; as part of your contribution?

Kathleen O'Donnell: Well the RFQ talks about finalizing it for the Town, in conjunction with shoring up your Edmunds instance. I have begun to draft a document that gives you some options to make the job quicker for the consultant and we will also monitor the charges that the consultant does to make sure that they are delivering good product to you and we will have access to their work, if we need to take a look at it to make sure that they have done their due diligence.

C Martin-Brown: You've addressed a second question I had, because I noted on Page 18 of your project here, that the contract would be between your office and a company. Now we're setting on some red ink as we meet and the best intentions, we may end up having excellent documentation and be completely bankrupt, as a Town; how do we confine the cost; how do we set the parameters that are very clear to both your office and to the contractor?

Kathleen O'Donnell: That's a very good question, so I'll be a little more specific, since this is a new process for the Town; so they're good questions. When the consultant proposes to us; they will tell us their engagement stats(?) specifically; the hours they anticipate putting into it; and what work they will be doing; and then they will give us the charge for that; the dollar charge. Then as the work progresses, even to the extent that, let's say that something happens within the Town and you get an answer on some of your accounting work and things of that nature; we will tell them that the scope of work has changed. It's decreased. So therefore, we expect you to decrease your fees. That's where our office will come in and ride herd on it, so to speak; to make sure that you get the best bang for your buck. We're going to make sure that they realize that this is a very cost conscience situation and so we want to make sure that they deliver the work product that's meaningful to the Town.

Mayor Newlands: And it has to be scaled to the Town's size, not to a Wilmington or a Newark, Delaware.

C Martin-Brown: Right, Mr. Mayor, if I could just continue on this one topic. Because tonight on the agenda is the possible vote by the Town on the fiscal year budget, which starts October 1st; and what I'm wondering about is a contingency line in the budget we're to approve to make sure that either there's budget in there adequate to what you think we need to be prepared to pay and that it's in the budget.

Kathleen O'Donnell: Before we come back on October 4th; we will give you the number for the proposer that we're recommending; so you will have a number and you'll have a break out of what those charges are for.

Mayor Newlands: Not that we're going to be spending \$100,000 on this; but we do need this work done and there's no doubt that we have to have this work done.

C Martin-Brown: I'm not debating the work Mr. Mayor, I'm debating how we pay for it, that's my only concern; I think it's legitimate.

C Lester: Excuse me, coming back to that suspense account, what I've seen in software quite often, is if there are numerous mistakes or mispostings, the software itself will produce a suspense account; just because it wants to balance and I'm not sure if that's something we have. Just to follow that up, about two weeks ago, I guess, the Mayor and the Town Clerk and myself for about an hour or so spent a lot of time on the telephone with a fellow named Dave Schultz, who is with Edmunds and Associates, the software; and he sent the Council and I got a copy directly from him; an analysis that he made in that short period of time of some of the problems that he found. A lot of it was linking problems; accounts not properly set up; not posting properly; cash going into the wrong account; income being reported in the wrong account. They have offered to help and I'm not sure how we can dovetail their system, because they're really familiar with it and they do have a copy of the database that they're looking at.

Kathleen O'Donnell: My experience has been in working with, not specifically Dave, but others at Edmunds in other audits in the State of New Jersey; they have a vested interest in you having a successful instance of Edmunds and so I think that to the extent we can try to get as much assistance from them as possible for both the Town directly and for the consultant, that would help minimize the cost for the consulting work.

C Lester: One of the things that they do plan to do, and this is important for the Council and the Town to know, they will provide us assistance and training assistance, and they are going to spend some time here with Stephanie, particularly, in training on the system, because we are left without a Finance person and nobody was cross-trained. Fortunately, Stephanie knows some parts of it; but we have nobody that knows the entire system and that's a defect in internal control, in my opinion.

Kathleen O'Donnell: You do need someone to know the entire system and you also want some cross-training, because you never want to be entirely dependent on one individual. One piece that Edmunds can't give you, that you don't have currently, and I think would help Council, is the mapping; you saw the work flow and the mapping of the internal controls in the written policies and procedures; that's going to put the Council in control a little bit better of the day to day operations. If the draft manual that I have started for small towns and the hope is that we can pass this along to any town that wants it; that doesn't have it currently, is to give Councils in laymen's terms, some things to look for; that are rather simplistic. This is not intended for a large operation; I realize you need something that's manageable and workable at the town level. That's the intent here.

Mayor Newlands: Just to clarify a couple of things. We are sending out our bills. We are sending delinquent notices out for our taxes, our water bills, we are paying our

checks, we are functioning, even though we need additional training, and we are functioning on a daily basis fine.

C Lester: Well I did say Stephanie knows some parts of it; but unfortunately not everything; and that's an unfortunate circumstance; that should never happen.

C DUBY: In your experience in working with towns around the State, how common is it for a town of this size to not have the written procedures and policies that you're talking about; is it very uncommon?

Kathleen O'Donnell: Well, I first look at the level of staffing that you would have and for a town of your size, you had staffing. You had a Director of Finance; which is very good; and you have quite a number of people in the office. I can't give you statistics, pure statistics; but I would say that it is uncommon to have absolutely nothing at this point in time; particularly with the level of staffing that you had and you have a full time position that holds that Director of Finance title; so I really don't understand that.

C DUBY: And you're talking about written policies and procedures, specifically to the accounting process.

Kathleen O'Donnell: An operational processes, yes. Sometimes people confuse, not just the mechanics of post this entry or that; the real benefit to the Town is, ensuring; and this is what concerns me the most; and I saw a lot of this in the State of Pennsylvania, as well; we used to audit across the state. If you don't have those in place, you don't know what you're missing. Some of your funds are very fungible and there's no one there; it's not like you have a television camera pointed at your... And I'm not making some kind of allegation here; but that's just what from auditing local governments, that's where I get concerned.

C DUBY: This is why I asked the question earlier, that I'm seriously concerned about and that is whether or not based on what you've seen; your take on this and I realize you can't; no one can until somebody gets in there and figures it out; whether or not what you're talking about is sloppiness; not doing things right because we don't have the procedures in place; or are you saying this is the situation where we believe there has been some fraud; some malfeasance; some impropriety; some embezzlement.

Kathleen O'Donnell: It could be any of those or a combination. It could be any of those or a combination thereof. And because there may be so few controls in place, that when you're in a situation where there's nothing and there's no process and so the staff just; it's not their intention; but they don't know any different. Often times it's difficult to go back and prove, even though it looks very suspicious; there's not enough paper trail or flow; so there's too many ways to abscond with the funds and I can't make that assessment. It would be inappropriate of me to make that at this point, because I don't have enough empirical evidence.

C Lester: If I may make a comment, because this has come up in probably the last 3 or 4 years; at least in the last 3 years in the minutes, when the audit's been presented to the Town; and in response to several comments to newspapers where they've come back and asked people in the Town; this comment about internal control. It's kind of a canard, because they keep coming back and saying well we're not Wilmington, and only Wilmington can have internal controls. I've worked with mostly small businesses, maybe in the \$50 million or so and smaller and you can have two people and have internal controls. That's been my problem for quite some time and I've

been speaking about it; and nobody on the Council or in the Town has paid any attention to it. I just get upset about this.

Kathleen O'Donnell: If I may, a lot of us that are trained and entrenched in internal control; it sounds like a lot of mumbo jumbo; but the bottom line is we all practice internal controls; and all it is protecting your assets and doing your best to ensure that you're keeping track of what you have; you have enough to pay your bills; it's actually very simplistic; and we all practice it; or we hope to practice it. That's something that we teach our children is we give them \$5 and say it has to last you until next week. So sometimes we like to encase it in very fancy language and I do agree that there is a level of appropriateness; I understand that some towns have been bombarded with this highfalutin internal controls; like it's going to cost me more to protect the assets and that's always something that you train an auditor; like you don't want to ask for controls that cost more than what you're trying to protect; so it needs to be the right balance.

C Lester: Thank you.

Mayor Newlands: Does anybody have any other questions?

C Lester: Thank you very much, we really appreciate it.

C DUBY: Thank you.

Kathleen O'Donnell: Thank you very much. I wish you the best.

C Lester: We hope to hear from you shortly.

Kathleen O'Donnell: That's right, we'll keep you posted. We should post it up this week and we'll provide you with an electronic copy. Okay.

Mayor Newlands: Thank you very much.

8. Finance Report and Expenditures/Revenue Report

C DUBY: I have a question. She's given us a draft. Are we giving her feedback on this? I didn't have a chance to read it. I don't know if you or Mr. Lester did.

Mayor Newlands: No, I didn't, I got it when you did.

C Lester: No. It's the first time we've seen it.

C DUBY: So if they're going to post it, I would think somebody in Milton has to take a look at it first.

Mayor Newlands: Yes, we'll take a look at it; we're not voting on it and we generally don't vote on the RFQ's; but they're going to control the whole process and they're going to take in all the bids and do all the interviews.

C DUBY: Yes, I understand that; I'm just saying that this is being put out on our behalf; we should make sure that if nothing else, the specifics that are in here about the town are correct, and so on.

Mayor Newlands: Yes, we'll take a look at this. We're actually going to talk to Kathleen probably in a day or two after Norman and I get a chance to read this. Norman, did you want to go over the Edmunds, or not; your talk with David Schultz?

C Lester: We received a communication from Dave Schultz; I'm not sure of his title, but he's Director of Software Support at Edmunds Associates and he spent some time on the telephone and on the computer with both the Mayor and the Town Clerk and he found quite a number of anomalies in the accounting system; many of them were monies going into the wrong account; which meant monies were spent in the general account; which should never have been spent in the general account. Therefore if

they went into the general account, then the revenues didn't show up in the right place. Once again, we don't have a budget or expenditure report to show the Council because we don't know how many errors are in the account; the mapping of the system so that the accounts were being reported properly; actually it would be a waste of paper and time to print it out at this point.

Mayor Newlands: We only went over October and November of last year, the first two months of this Fiscal Year just to correct some of the accounting and we found some errors; and the conference call was about 3 hours and Dave Schultz went through and found some errors and he actually corrected them all on the system, remotely. But it took us almost 3 hours to go through some of the discussion we had; plus making the corrections; and that was only two months of the books. We're going to have him come back and do the rest of it.

C Lester: I think he's going to come on site and we'll work with him or he'll work with us; so we'll all get an understanding of what it is.

Mayor Newlands: Do we have anything else on the finance side?

C Lester: Nothing else.

9. Old Business

a. Discussion and possible vote to approve the Fiscal Year 2011 Budget

Mayor Newlands: You have a couple of the copies of the budget there. There are two different versions; one is a version that has the Departments on the left hand column. I have made very few changes to this. There are some things that Mr. Lester has been trying to do if you go down just past the middle of the page to item 5400 in Admin; you will see Town Insurance and it is now sitting at \$70,000. I just reallocated that; it was \$105,000. All I did was reallocate \$35,000 to Water, because it's a split that we're going to make at some point and right now it's not a guess, but an approximation as to what that number will be. So we're trying to allocate all the insurances and things that need to be done across departments to get them properly allocated. The one good thing is that the Water Department has a profit, so they can absorb some of these extra expenses; which is nice. It lessens our deficit. So we did only one or two of those items and there are more that need to be done. Mr. Lester is working with the insurance company and Stephanie to find what needs to be allocated in each of those departments; so that is going to be a work in progress getting some of that corrected and we will report on that monthly as we correct some of those problems.

C Lester: And that will be finished before we begin the new year.

Mayor Newlands: Okay good. There are a few things that are not in the budget and I think there are some Certifications that Ms. Coulbourne and Mr. Davis have for their professions, so I think there's some training that was not in this budget; maybe \$1,000. These are for their career certifications. So where we stand right now in the budget is if you look at page 5 of 7, I fixed the Municipal Street Aid that was listed at \$60,000; that's really \$42,000. It lessens the deficit a little bit by correcting some figures.

C Duby: I have a question on page 7. It looks to me here, before we get to this budget deficit, below the budget deficit line, the things that I assume are proposed

things to reduce the deficit; it looks like we've gone from having a \$521,000 to having a \$459,000 something? Is that right?

Mayor Newlands: That's correct.

C DUBY: Okay. Now you're saying you've adjusted, you've mentioned the \$35,000 and the \$18,000; what's the \$5,000 by the way?

Mayor Newlands: The grant we had listed as an income of \$15,000; it was really \$20,000; so it was an extra \$5,000 revenue.

C DUBY: Okay great. Now have you made, after that \$5,000 line; have you made these changes, or are these just the way you are getting to the \$273,000.

Mayor Newlands: The \$62,000; \$48,250 and the \$14,000; those have not been made to the bottom line.

C DUBY: Okay, so not rehiring one person in Admin, I assume that's Jenn?

Mayor Newlands: Yes, I would assume.

C DUBY: Not hiring the Code Enforcer. What's the half Park salary?

Mayor Newlands: We have an individual who is going to retire in March; so half of his salary.

C DUBY: And we would not replace him?

Mayor Newlands: Correct.

C DUBY: And then you have down here a second Admin person; this is a possibility?

Mayor Newlands: Yes, you had asked for one or two Admin people; an estimate of how much it would save by laying off one or two people.

C DUBY: I have some concerns about that and some of the public participation comments, particularly Ms. Jones tonight point that up. I think we're getting to a point where if we lay off too many people; or lose too many people; we're already not keeping up. Our website is not up there. We haven't gotten letters out with code infractions. I mean, there are things that aren't getting done and I know that the people of this Town, the ones who are paying attention, know that we're in trouble financially; and that we need to cut staff; but I think more and more people are going to see that services are being cut or are not being done as efficiently as possible. It concerns me a great deal given what Ms. O'Donnell just said about our accounting procedures, that we're not going to replace the finance officer; who is going to take charge of that? I assume Stephanie, from what you all have said. Stephanie seems to be awfully overloaded at this point; she's doing probably three jobs, Steph? So I'm just very concerned about our cutting as deeply as we have and frankly not considering some cuts in other places; specifically the Police Department. At least that eleventh person; and I realize I don't have the votes to support this on the Council; I would cut one of the ten; but I certainly, as I said last time at the last meeting, the people I'm hearing from about the budget say why aren't we looking at the police force; why aren't we looking at the numbers; at the overtime; and so one; instead of looking at Town Hall again and again and again and cutting more and more people. None of these decisions are going to be easy; and I'm not saying let's do this; this is the easy one, at all. But there are things that aren't getting done down there and you hear from people tonight; they're seeing it and I absolutely agree with Marion Jones about what our website is. It's not only our calling card in terms of business; but

to anybody thinking of moving here; to anybody who lives here now going on it to try and get information; I'm frustrated when I go on it.

C Abraham: I think that's been an ongoing problem. If we still have information on it from February that just didn't happen.

C Duby: I know, I'm not saying it just happened.

C Abraham: When we were fully staffed, we were probably behind in it.

C Duby: The website has not been kept up well all along, but it's because people have a lot to do down there; and so we cut and they have more to do. I'm just concerned about that.

C Martin-Brown: This budget layout you have here is very, very helpful so I thank you for it. It only makes things worse, though. In Fiscal Year 2009 we had a budget deficit of \$229,000; in Fiscal Year 2010 we went up to a deficit of \$295,000; when we look at what we started with tonight our deficit is \$459,000. Now with letting people go and possible best case scenarios, we get it down to \$273,000; but 2009 and 2010 we didn't have anybody leaving the staff, so how we got from there to here to there...

Mayor Newlands: The number you're saying with the \$459,000 that does not include any staff leaving.

C Martin-Brown: Right, but you see we had the same amount of staff in 2009 and the deficit was \$229,000; and I may be reading it wrong, but in 2010 the deficit was \$295,000. Our proposed budget, until we did this peeling down was \$495,000 and by reducing staff we get down to \$273,000; when the staff hadn't been reduced in 2009 and 2010. So I may not be reading the red right, but it would help me to know how we came up with around \$280,000 as a consistent deficit; but in 2009 and 2010 we didn't let any staff go.

Mayor Newlands: A lot of it has to do with the housing market. Every time we get a permit for a house, it's going to affect our transfer tax, our sewer impact fees, or our sewer permit fees.

C Martin-Brown: So the revenue that's the issue.

Mayor Newlands: Revenue is most of the issue, yes.

C Martin-Brown: Thank you Mr. Mayor.

Mayor Newlands: All right you have building permits, you also have the Water Impact Fees, as well, so there are about six or eight items that get affected by a house being built in this town.

C Martin-Brown: So what we're really looking at and I think it's really important for this Council and everyone here, that we again acknowledge that it's been a revenue decline for the last two or three years and we haven't made the adjustments in anticipation of it, because we didn't anticipate; nor did Wall Street, so I mean we're not so dumb. I think the scenarios that point fingers miss the point that the problem is really revenue and not personalities. Thank you.

Mayor Newlands: C Duby you said that you did not want to do something with the second person in Admin; and one thing I did not do is give you a sub-total as to what the deficit would be on that line there where the \$124,250 is; our deficit would be \$335,532 as opposed to \$273,532. Those are the two differences with one person vs. two. And the eleventh officer does not cost us anything in the first three years.

C DUBY: It does not cost for salary and benefits; it costs us everything else. It costs us ammunition, uniforms.

MAYOR NEWLANDS: We can put an officer on the street for under \$4,000 and we can get most of that, if not all of that, from grant money; and the way the grant works is if we've dropped below the eleven officers to ten officers, we still only pay ten officers. So we're always paying ten officers.

C DUBY: What about when the grant runs out after three years.

MAYOR NEWLANDS: Its three years. I think in three years we'll be fine and if we lose somebody, we can make a decision not to rehire somebody. We lose the grant or we don't get paid the grant, but that's fine. Now one thing I do not want to do, is I do not want to declare a revenue reserves as the plug to fill in the gap; what we're doing now in the office is we're going through everything possible to try to look at every contract we have. We're looking at some of the contracts, to try to get them renegotiated; we're looking at alternate vendors; we've already done the phone systems; we're looking at the copier companies now; we're looking at printers right now; we may have found a way to print to not have to buy print material anymore for our bills. We may be able to generate that from the copier itself, so that it's only \$1,600, but it does save us some money. We have a gentleman that came in on the energy side who is proposing he can save us \$2,700 a month in electrical fees; I still want to see that. I'm going to switch to him myself, if I have to. That's \$30,000 plus a year; we've done one switch already. Ms. Coulbourne did a switch a couple of months ago to Washington Gas and Energy, which saved us some money, but we're looking to switch again if we can. So we're going to continue to look at cost saving measures; we're going to continue to do whatever we can do to save money and it's just something that we have no choice at this point.

C DUBY: I guess the other question I have is, given how many things are still in the air; the insurance calculations haven't been completed; we're looking at contracts; and so on, can we vote legally on this budget as a final budget tonight; I would as Mr. Thompson?

SETH THOMPSON: Actually your Charter requires you to vote after the Public Meeting. It's a shall, it's not a may.

C DUBY: Yes, but if we vote on this and approve it, is that a legal approval; because we don't have final numbers?

SETH THOMPSON: Well you're always free to revisit the budget.

C DUBY: Well I understand that, I'm just saying what exactly is it that we have to have in hand to approve; does this meet the requirement and if it does, then that's you know...

SETH THOMPSON: I would say that it does.

MAYOR NEWLANDS: We're not required to have a balanced budget.

SETH THOMPSON: That's right.

C DUBY: I know that. We would have missed a lot of votes if that was a requirement over the past couple of years.

MAYOR NEWLANDS: And it is going to be a budget that stands as is, with improvements to come.

C Abraham: Do you not have to vote where you're going to pull the money from the deficit; we have in the past; we all had to vote on...

C Duby: How much out of reserves and how much...

C Abraham: That's what I don't know, if we had to do that, I am not...

Mayor Newlands: We only have the money in reserves; that's all we have.

There's only \$1.1 million in the reserve account right now; and we will have an accounting for the October meeting as to how much money we will need to borrow in October, November, and December to carry us forward until tax season comes. So we will have to borrow money from the other accounts in order to keep us in a cash flow position. That's just an issue we face every year.

C Duby: Well and obviously so do other cities, if you saw the article about Wilmington borrowing \$7 million out of their reserves and borrowing \$3 million from the banks, so we're not alone.

Mayor Newlands: No, no we're not.

C Martin-Brown: Mr. Mayor can we go back to C Abraham's question about where the money comes from; that we're looking at a deficit; introduces a subject that we've been dancing around. In the audit finance management process, one of the things that's not according to Hoyle, according to Lester, but that gets done; the question is if you are running a budget and one month, one budget in your town departments is under spent; and you reprogram from budget line a to budget line b; part of the challenge is the tracking of consistent reprogramming so that the growth cost of the Town Hall for one month is provided for. That doesn't necessarily produce a paper trail, which is of concern to me, because most places do this; borrow from Peter to pay Paul, if Peter is a little richer than Paul; this becomes a dilemma for paper trails and audit trails and can imply impropriety, when in fact it is working out to be able to match the growth requirements of a month where you don't have to borrow from the bank. In the past that's been within the purview of Town Hall. The question is now, if we're going to reprogram and we already know that this budget has a hearty deficit; but we can buy time by reprogramming within accounts, does that come before the Council; does that come before the Finance Committee?

Mayor Newlands: What some towns do is if they are between Council Meetings and they are going to need to borrow funds for a short duration of time, they borrow them as long as the money is going to be back before a Council Meeting. We're not going to be able to do that; we're going to borrow the money and its going to be for a few months and we will be coming before Council. We do document where any transfer of funds that we have; that it gets documented on a spreadsheet and that's something that's...

C Martin-Brown: Between departments.

Mayor Newlands: Anytime we're transfer money; whether it's transfer money like for Municipal Street Aid, we're transferring it from that account to the account we're going to pay it in; and it's not even borrowing money, its just using the money.

C Martin-Brown: Reprogramming, we call it.

Mayor Newlands: No it's not reprogramming, it's just taking the money that we're supposed to be using, but anytime we move money it is documented.

There's a letter that gets signed; there's a spreadsheet that gets updated as to who has done it and what it's for.

C Martin-Brown: So that will be the new procedure that Edmunds makes possible.

Mayor Newlands: No this is just something that we're doing internally.

C Martin-Brown: I'm talking about internal within Town Hall line items in the budget.

C Duby: You're talking about the bank accounts. She's talking about if the parks work does not have the money to pay its bill, but the code enforcement office is flush that month, you use that money; that's fungible money as she's talking about it.

Mayor Newlands: Those monies, except for Water, all those monies come out of the same pot. So I wouldn't say borrow on the books money coming out of Code to pay Parks, because it is all in the general fund.

C Martin-Brown: So it would not be in the books. Okay, thank you.

Mayor Newlands: We're paying our bills every month; it's about \$35,000 twice a month in salaries and somewhere about \$120,000 a month for regular bills.

That's a lot of money that goes out of here.

Stephanie Coulbourne: Speaking on that note, since you made that statement, I'm just going to clarify; some of those, like the health insurance, a percentage is recovered from the employees; the trash bill, some of the paying out of the money is recovered from the bills that we send to the residents.

C Duby: So I guess, back to my initial question is what we're voting on is this draft budget that will continue to be adjusted and in answer to C Abraham's question, reserves are the only source of any funding?

Mayor Newlands: Right, but like in the past, we used to rely on reserves and just do that and rely on reserves and not do any cost improvements. This year we're going to do cost improvements and continue to do that until we get this thing down to a zero balance budget.

C Duby: But you're not going to get it down to zero without going into reserves.

Mayor Newlands: Well we're going to get it as close as possible; for cash flow, yes. We'll go into reserves for just the cash flow. But we're going to try and cut as much as we can and get this down as much as we can.

C Duby: So you're going to cut \$459,000 worth of stuff.

Mayor Newlands: It's \$335,000 yes.

C Duby: Well I'm going to be interested to see how you manage to do that by renegotiating our Xerox machine contract and things like that.

Mayor Newlands: Well it's not going to be that one.

C Duby: That's what I mean; I don't think it's realistic to say that that much is going to change without going into reserves.

Mayor Newlands: We're going to do as much as we can during the year. We have no choice. Otherwise we've got to get rid of four more people.

C Duby: I understand that and I am in support of that and every single thing you can do, but I think we have to be realistic and say, there's going to be some money coming out of reserves that's not going to go back in to reserves, unless our revenue increases significantly.

Mayor Newlands: Yes probably but at least we're going to make an effort to do something about it. In years past you never made an effort to do anything about it; it was just plug money in there to take out of the bank and that was it. There were never any cost savings programs going on, like we're doing now.

C Duby: I'm not disputing that with you at all. I'm just saying that I think we need to be straightforward about this and say that we're going to be taking some money out of the reserves.

Mayor Newlands: As much as we need to, but we're going to cut as much as we can, as well.

C Lester: I propose that the fifth draft budget as presented be accepted.

C Duby: I second the motion.

Mayor Newlands: We have a motion and a second to approve the budget as stands. Is there any further discussion? Let's have a roll call vote:

| | |
|------------------|-----|
| C Lester | Yes |
| C Martin-Brown | Yes |
| C Duby | Yes |
| C Abraham | Yes |
| Vice Mayor Betts | Yes |
| Mayor Newlands | Yes |

Mayor Newlands: Motion is carried.

10. New Business

- a. Discussion and possible vote regarding parking on one side of the street in Wagamon's West Shores

Mayor Newlands: The next two items I have to recuse myself from, because I live at Wagamon's West Shores and Seth will take over on these two items.

C Lester: Mr. Mayor I live at Wagamon's West Shores also and I will also have to recuse myself.

Seth Thompson: The town has done some digging; it's not on any of your approved plans. There was, however, a Town Council Meeting May 5, 2003 in which there was a vote to approve. In approving the streets it looks like the motion was made with parking on one side of the street; that motion carried. There was then a follow up letter three days later just confirming the approval, but then it said that no on street parking will be permitted on one side of the street and the developer is responsible for the signage. There seems to be some additional language and in following up on the follow up letter, involving the building being responsible for the signage, that the minutes don't bear out; in addition there is not really anything in your code that would require that and it wasn't a part of the record plan. So obviously the people have somewhat spoken in terms of their request and I gather the ___ join in this; to a certain degree if he's not responsible for paying for the signage he doesn't really have a dog in the fight. There's a request that that requirement, I guess if we use that term, be removed. This is also obviously in conjunction with Part b in terms of dealing with the reduction of the bond or the cancellation of the Performance Bond and somewhat of morphing into

an agreed upon maintenance bond for a year. So we're trying to wrap up this project and again we have some language out there that maybe there's parking on one side of the street and not allowed on the other. Maybe the developer is responsible for it in terms of paying for the signage; although the minutes don't bear that out. I think, in order to clean all this up, the Council should take a look and certainly consider whether or not they actually want that as "a requirement". I would note that it would have made more sense to have that on the record plan indicating what the streets needed to be, because that's a much easier, much clearer means of putting a requirement, putting a condition on an approval. So be that as it may, again this is an older project; obviously we're talking about minutes back in 2003; this is what we've come up with; this is where things stand.

C Duby: So you're saying that there's nothing in any of our ordinances or in the code that lays out a required width of the street and discusses parking in conjunction with that width of the street.

Seth Thompson: That's right and I'm sure Robin or Bob Kerr can chime in. There are so many discussions of street widths, but in terms of parking, your ordinances seem to deal with parking spaces, off street parking spaces; I can't find anything and maybe there was a different ordinance back in 2003, although it was not referenced in the letter or in the minutes, that if a street is a certain width, you're only allowed to park on one side of it.

C Duby: And is there anything, Mr. Kerr, in engineering standards that says if you have a street that's only so wide you can't park on both sides or anything like that for safety reasons?

Bob Kerr: If I could give just a little bit of history; at the time Wagamon's was approved, we were operating under a different sub-division ordinance and the width of the street, per the ordinance was 34' back of curb to back of curb. Today your ordinance is 32' back of curb to back to curb. Going back a little bit further, Wagamon's started many, many years ago and the curb standards changed a couple of times during it's development. It started out with a rolled curb; not a vertical curb; but just the type that you could drive over; that was changed to a vertical curb, but the width of the street was never changed. The width of the street back of curb to back of curb is 29'3". So it's 4'9" narrower than the town standard at the time it was adopted. The developer came before Mayor and Council and requested a change in the street width; not to change the ordinance; but a waiver from the ordinance; and that was granted with the stipulation that parking not be provided on both sides of the street.

C Duby: And that was this 2003 vote?

Bob Kerr: Yes, that was this 2003 vote, yes. Whether the minutes reflect everything that was said that evening; it's a brief...

C Duby: Well let me ask you a question. The request was for 34" wide collector streets; and 26' wide side streets. What is the collector's street?

Bob Kerr: The collector's street would be the main entrance and it is wider than once you get into the development.

C Duby: On that same street. The street only has to be wide at the entrance as opposed.

Bob Kerr: At the entrance, and I don't remember exactly where it transitions; but I believe it is at the first intersection; it might be the second intersection that it comes back down to the minor street. It's just to give you a little bit more room where you are turning on to Lavinia Street; and the distances that are talked about there, the 26' would be from the face of the curbing to the face of curbing, where the town standards talks about back of curb to back of curb; that's the reason for the 2 or 3' difference in the numbers between one; because the curb itself is 1'8" on each side.

C Duby: The motion did not say anything about measuring them differently, it just says 34' collector's streets; 26' wide side streets.

Bob Kerr: The 26' streets work out to also be in the 29 when you add in the width of the curbs.

C Duby: Oh I see what you're saying.

Bob Kerr: The actual hot mix paving is 26'.

C Duby: And is there some engineering standard that says when you have streets that are X feet wide, in order for safety to be observed, you can only park on one side or...

Bob Kerr: There are, but the Fire Marshall would be the main standard and it's 20' of access; so if you do get cars on both sides it gets very narrow; a fire lane is 20'.

C Duby: How wide is a car?

Bob Kerr: A car is a little less than 8, 7+/- feet.

C Duby: It's a lot less than 20.

Bob Kerr: Yes.

C Martin-Brown: Mr. Kerr, the agreement that there be parking on only one side of the street was reconfirmed by Eric Evans, the Code Enforcement Officer following that meeting. I happened to be at that meeting; it was shall we say quite contentious and I remember you were quite uncomfortable with the increasing narrowness of streets; and the Fire Department was here as well, concerned about narrowing the streets; and it was their testimony and your presentation on State Standards For Emergency Vehicles that came up that night and so in order to respond, because people were concerned about so much asphalt and the papering over of asphalt of Wagamon's, that there was a compromise reached where okay I, the Engineer, I, Fire Marshall, and we, the Town Council, will agree that we can shrink the street widths so that we don't have so much asphalt; but we need to make sure cars are only on one side. Now I'm surprised it didn't make the minutes, but am I being fair, unfair, incorrect, fantasizing, or what?

Bob Kerr: No I believe that's a fair assessment of the evening.

C Martin-Brown: Thank you, Mr. Kerr.

C Duby: I think, I won't speak for anybody else up here; but I'm in a quandary; because I hear what the residents of Wagamon's West Shores are saying; I also remember some folks from Cannery Village coming here on several occasions talking about the concerns they have about access and emergency vehicles out there, because of the narrowness of the alleys and so on. I don't have any desire, believe me, to say to the folks at Wagamon's or any other neighborhood in this town, well we're not going to let you do yada yada yada when they've made it

clear what they want. But I am concerned about safety. And if you're talking about ambulances, fire trucks and police vehicles and so on having trouble getting in there with parking on both sides, I would like to have some hard facts about this and what is recommended. I wish we had somebody from the fire department here; I wish we had some more information.

Bob Kerr: My opinion is I'm always a fan of a wider street, than a narrower street, because you said, emergency traffic; I was not a fan of the width of Cannery Village that was mentioned. I prefer the wider streets. Both streets, both systems, were reviewed by the Fire Marshall's Office; one or the other reasons for approving Wagamon's West Shores width of the streets, as they were was it would have required a complete redesign of the storm drainage system, because of the additional impervious area and there was a big push to not increase the stormwater runoff. Certainly Mayor and Council have the right to do what they wish to this evening and review in the future and make other decisions. If it chooses to be the correct decision or incorrect decision, it can always be remedied at a future date.

C Abraham: Why don't we table it for more information? We were just having a side bar discussion; like Cannery's streets aren't they thinner?

Vice Mayor Betts: They're very narrow.

C Abraham: I thought Wagamon's were really wide. I would like to hear an opinion from an emergency standpoint.

Seth Thompson: Just from a legal standpoint, again, the minutes don't make mention of paying for the signage.

C DUBY: If we don't require parking on one side only, then there is no need for signage, so it seems to me that signage is an issue that we don't even get to.

Seth Thompson: And that's right if that's the determination. I guess I'm looking, and perhaps I'm getting a little bit ahead of myself on the agenda, but in terms of accepting the construction improvements, when that occurs I think the Town has put itself in a difficult situation in terms of forcing the developer to pay for any of that signage. So potentially if you're going to table the issue, the way it works out is there might be some concession there, that the developer then isn't paying for it; if it is going to get turned over before then.

C DUBY: What's our liability in terms of... I understand, please, that those of you who live there want to tell us to go to h**l and let you park wherever you want; and trust me, I would be happy to do that. I am concerned about safety concerns. We have had people from Cannery Village up here with pictures showing us that emergency vehicles can't get in there; they feel unsafe if something happens and I understand you're not Cannery Village.

[Unidentified Speaker]: We're not Cannery Village. I practically get killed going to King's Ice Cream, and that's as narrow as where I'm going.

Seth Thompson: All right folks, the public comment section is over. Thank you.

C DUBY.

C DUBY: What is our liability?

Seth Thompson: It is the same analysis, discussion as what's been had with regard to Cannery Village. We've been down this road before, obviously; it's narrower.

C Abraham: Mr. Kerr, do you know how wide the streets are in Cannery Village?

Bob Kerr: In Cannery Village where the bump outs occur they're in the 22' width, I'm thinking. I don't have the drawing in front of me.

C Doby: 22' from front of the curb to front of the curb?

Bob Kerr: I believe so, yes.

C Doby: So it would be 22' vs. 26'?

Bob Kerr: Yes.

Vice Mayor Betts: And it's just parking on one side of the street?

Bob Kerr: Well there are places where there is parking on both sides, where the paving width is wider where there is parking.

Vice Mayor Betts: You don't know what size that is?

Bob Kerr: I'm really pulling this from memory about another 6'; when there is parking on one side; so it is possibly a 28' lane; where there is parking on one side and it would be in the 34' range, if there is parking on both sides; but I would prefer to get the actual drawings in and report back to you with those dimensions.

Seth Thompson: Mr. Kerr, if a two-sided parking street is 34' and a car is about 8' wide, aren't we below the 20' anyway?

Bob Kerr: For some reason a parking space is allowed to be in the 6' wide range. I don't understand why, but that's the number.

C Doby: So you're taking 12' off, if you've got it on both sides.

Bob Kerr: And that's assuming that you've scraped your tires. You get somebody that has parked further away from the curb; and then you have traffic coming the other way, as an emergency vehicle comes down the street is the concern.

Vice Mayor Betts: They look so much wider in Wagamon's, then they do in Cannery Village; that's why I ask.

Bob Kerr: Yes.

C Doby: I don't see any of us leaping to make a motion. If we did nothing, and I'm not proposing that we do nothing; because I think we have to grapple with this; but if we did nothing, what was passed at that 2003 meeting would stay in place, right?

Seth Thompson: Your question is whether or not it is enforceable? Again, you have minutes that don't note; I suppose the short answer is yes; but then the next question is okay, well then who pays for the signs?

Bob Kerr: It would delay the decision, but Robin tells me that in all likelihood the tape of that meeting still exists and could be reviewed, if that would help.

Vice Mayor Betts: What would have to be done in order to void what we made the decision in 2003?

Seth Thompson: Again, there is nothing of record. This isn't something. This is really, essentially a condition that was placed at that time; but it is not of record; there is no recorded...

Vice Mayor Betts: So there's nothing that we would have to do. If we just made a vote or a motion to let them park on both sides or did not on one side of the street; we wouldn't have to do anything with this then?

C Doby: It was a Council motion back then; so we would have to have a Council motion now.

Vice Mayor Betts: So that would override the one in 2003?

C Doby: It's not like a code section or an ordinance or anything like that.

Vice Mayor Betts: Okay.

C Duby: It seems to me we could do it with a motion.

Vice Mayor Betts: I'm going to make a motion to override the 2003 and due to the resident's wanting both sides of the streets, I'm going to make a motion that we let them park on both side of the street.

C Abraham: Second.

Seth Thompson: Please do a roll call vote, and note the recusals, as well:

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| C Lester | I recuse myself |
| C Martin-Brown | Yes |
| C Duby | Yes and I hope that by the time we have the first parade of people from Wagamon's with their pictures of the too narrow streets and the complaints about the emergency vehicle that I'm no longer on Council, but yes. |
| C Abraham | Yes |
| Vice Mayor Betts | Yes |
| Mayor Newlands | I recuse myself |

Seth Thompson: The motion carries.

- b. Discussion and possible vote regarding parking Milton Properties, development of Wagamon's West Shores , request for reduction in Bond and acceptance of a Bond for roads and plantings

Seth Thompson: Mr. Tracey, I don't know if you want to speak.

John Tracey, Young, Conaway, Stargatt and Taylor: I'm here on behalf of Milton Properties who is the developer. As Mr. Thompson indicated, we're here two-fold, seeking acceptance of the streets, which as the Council is aware were paved several weeks ago; as well as the elimination or return of the Performance Bond and us placing in its stead a Maintenance Bond. The most recent inspection report from C.A.B.E detailed that there were two items that were in process of being completed; one of which was the installation of the monuments throughout the town, which were probably 75-80% completed at this point and should be done tomorrow; as well as the finishing of some landscaping, particularly along the front of the community. That is also anticipated to be completed tomorrow. What I had proposed to Mr. Thompson, assuming it meets Council's pleasure, is that we would look to have the Bond returned to us on September 30th, thus allowing a couple of weeks to finish what is still out there. We would, at the same time, replace that with a Maintenance Bond. The Code, quite frankly, speaks only of a Performance Bond, which is the actual completion of the work that is bonded, that should be, as I mentioned completed tomorrow. There is really no mention of a Maintenance Bond; what we have proposed to Mr. Thompson is that we put a Maintenance Bond for those items that were just recently installed; Maintenance Bonds are typically in place for a year; much of what is in this community is way more than a year old. In fact, title to some items, such as the sewer system and the water system have long left our control and gone somewhere else. We're proposing a \$30,000 Maintenance Bond, which would essentially be covering the black topping, as well as the landscaping. The landscaping is per plan, actually subject to maintenance coverage. The trees are subject to a one year warranty; but this bond would be there in place, as well, to make sure that everything stands up over the next year. This would be a warranty against defects, as opposed to somebody going out and damaging and not maintaining the property; but that's what we're proposing. We have provided Mr. Thompson's office with a copy of the Deed for the streets. Mr. Thompson's office has completed a Title Search of that property. We have had the mortgage on the property from Wilmington Trust released so there should be no further liens on the property. We have provided Mr. Thompson with Releases of Liens. We anticipate one more of those before the end of the month for a small amount, for the remaining concrete work that was just completed on the sub-division. Again, our proposal is to have this all finally take place on September 30th at the end of the month. We would replace the Bond and get the return of the existing Performance Bond at that time and then the Town would be cleared to record the Deed for the streets.

Seth Thompson: That's correct. I guess the one clarification is that the mortgage was partially released as to the parts that the Town would be taking over. If we're going to do it on the 30th, my office will update the title search; in the event that something pops up in the interim. Again, we're just missing one release from a

contractor. Everything else appears to be in place. I don't know if Council wants to hear from the Town Engineer, just to confirm.

C DUBY: I would, just to confirm that.

BOB KERR: As reported, I checked with our inspector as I was running out the door this evening and landscaping is 75% and he thought it would be completed tomorrow; if not the next day; and the survey monuments, which should be completed tomorrow also. He also mentioned to me that there is one contractor who has not submitted the Release of Lien yet; but it was reported that they're still working on that one and are aware of it.

C DUBY: So the streets are up to standards?

BOB KERR: All the other items have been completed.

VICE MAYOR BETTS: And you are requesting the Bond be reduced 75% is that right?

BOB KERR: The Bond would be, I'm not sure, I'm trying to get the right term.

VICE MAYOR BETTS: I don't think it says 75%.

BOB KERR: The Performance Bond would be returned and in its place would be a one-year Warranty Bond for \$30,000.

SETH THOMPSON: The issue with that is Mr. Tracey's accurate, that basically your Code provides for the release of the Performance Bond and then there really isn't anything in the Code to require a Maintenance Bond, so truth be told, this is something that arguably they wouldn't be required to do otherwise. That is the \$30,000 Bond going forward.

VICE MAYOR BETTS: But it's saying here they request as of tonight a reduction in the bond; and that's what I'm asking.

SETH THOMPSON: And I suppose it's a reduction in terms of the amount that is being bonded; but it will be in the form of a release of the Performance Bond; and then a substitution of the Maintenance Bond.

VICE MAYOR BETTS: So you're recommendation is to release this bond.

BOB KERR: That you proceed with releasing the bond and accepting the streets.

SETH THOMPSON: Just to clarify, conditioned upon the receipt of the \$30,000 Maintenance Bond.

C MARTIN-BROWN: Mr. Thompson would it be astute or possible that this item on this agenda, in fact, should have been put on next month's agenda; when every single thing was completed and there were no tomorrows or probably next week; and that this item be tabled for a month?

SETH THOMPSON: You're in a position to approve it; subject to those conditions.

C DUBY: We can make it contingent upon all of those conditions.

SETH THOMPSON: That's right and I think there were some concessions on the part of the developer in order to get us in this spot where we are now. To a certain degree, they are going above and beyond, as far as what the Code requires going forward.

C MARTIN-BROWN: So you would propose that a motion be to accept this proposal, contingent upon the completion of items as outlined by Mr. Kerr from CABE and the removal of the lien by the contractor?

SETH THOMPSON: Well, just the receipt of the release. There is no lien that's been recorded.

BOB KERR: It's just the Release of Liens.

Seth Thompson: That's correct, though.

C Duby: I will move that we grant the request of Milton Properties for a release of the Performance Bond, contingent upon all of the work being completed by September 30th and the remaining releases being received and their posting of a Maintenance Bond.

Vice Mayor Betts: Second.

Seth Thompson: Please do a roll call vote, and note the recusals, as well:

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| C Lester | I recuse myself |
| C Martin-Brown | Votes in support of the motion |
| C Duby | Yes |
| C Abraham | Yes |
| Vice Mayor Betts | Yes |
| Mayor Newlands | I recuse myself |

Seth Thompson: The motion carries.

c. Removed from Agenda

d. Discussion and possible vote to sell the unused steam engine in Milton Memorial Park and earmark the funds for repair and maintenance of the railroad system

Mayor Newlands: We were approached a couple of times throughout the last year or so to sell that steam engine. We don't have anybody who is licensed to run the steam engine. It requires some sort of boiler type person to run it and my understanding from John Collier is, if that engine is out there running it will release steam at will when it needs to; not under the control of a human; and if somebody is near that engine they will be burned. So it is actually dangerous for us to have that engine in that small environment. It is only been brought out on the side rail a couple of times; it is really not brought out too often, so it has only been on exhibition occasionally. We've been approached by an individual to purchase the steam engine and keep it locally within the town area for an amount of \$10,000. I would like to earmark that money to be used specifically for the railroad. They have a design that they want to build a train station and ticket booth for the railroad. They would like us to pay for the lumber for that; they'll use volunteers to build it. Also there's an upgrade needed for the current train that they do run, but the electrical system has to get upgraded from 6 volts to 9 volts; because they can't get the parts for the 6 volt system anymore; so they need some funding for that. I think they have funding to paint the train station. So I would like to keep whatever monies we get separate and earmarked just for the use for the Lions Club for that train.

Vice Mayor Betts: Do you need a motion to accept the sale of the steam engine?

Mayor Newlands: And earmark the money.

Vice Mayor Betts: I would like to make a motion to sell the steam engine in the Milton Memorial Park and earmark the funds for the repair and maintenance of the railroad system for \$10,000.

C Lester: Second.

Mayor Newlands: We have a motion and a second to sell the steam engine for \$10,000 and earmark the money for repair and maintenance of the railroad system; all in favor; aye; opposed; motion is carried.

11. Executive Session: Discussion Personnel Issues and Possible Litigation

Mayor Newlands: I need a motion to go into Executive Session.

Vice Mayor Betts: I make a motion to go into Executive Session.

C DUBY: Second.

Mayor Newlands: We have a motion and a second to go into Executive Session; all in favor; aye; opposed; motion is carried.

Mayor Newlands: I need a motion to come out of Executive Session.

C DUBY: I make a motion to come out of Executive Session.

C LESTER: Second.

Mayor Newlands: We have a motion and a second to go into Executive Session; all in favor; aye; opposed; motion is carried.

12. Adjournment

C DUBY: I move we adjourn.

C MARTIN-BROWN: Second.

Mayor Newlands: We have a motion and a second to adjourn; all in favor; aye; opposed; motion is carried. Meeting adjourned at 9:41 p.m.