

**Milton Town Council Meeting
Milton Library
121 Union Street
Monday, November 4, 2013, 6:30 p.m.**

Transcriptionist: Helene Rodgville
[Minutes are not Verbatim]

1. Call to Order – Mayor Jones
2. Moment of Silence
3. Pledge of Allegiance to the Flag
4. Roll Call – Mayor Jones

Councilman West	Present
Councilman Coté	Present
Councilwoman Parker-Selby	Present
Councilman Collier	Present
Mayor Jones	Present
Vice Mayor Booros	Present (arrived late)
Councilwoman Patterson	Absent

5. Public Participation
 - George Berkowitz, 205 Summer Walk Boulevard: I'd like to talk about better defining the home occupation. I feel that there are two issues here. The first issue is to determine who goes before Planning and Zoning, before they can get licensed in a residential zoned area. If you live in Cannery Village, their community Charter addresses business activity in Chapter A under Use and Conduct, "A business activity shall be considered related to a residential use and permitted only if it's not apparent by sight, sound or smell outside of the permitted structure; does not involve regular visitation of the unit by employees; and is consistent with the community's residential character and does not constitute a hazardous use or threaten the safety of others." Under Exhibit C, Initial Rules, the Charter states "It is prohibited that commercial vehicles are allowed in places, other than enclosed garages after normal business hours and it prohibits signs on the side of portions of the unit." To me, these restrictions certainly differentiate a person let's say, who cleans homes for a living and works outside of their home, but does their calls, estimates, etc. in their house vs. a hair salon that has parking, signage and a steady flow of people coming to their establishment. To me the person who cleans homes should have a Milton business license, but not have to go before Planning and Zoning to get one. The second issue of defining a home occupation is how the Town notifies new people to the area, or people who already live here and want to start a home based business. How you do this will affect how people perceive the town they live in. Do you antagonize them by telling them they're going to have to go through a lengthy and costly procedure to get licensed; or are you going to have your Economic Development

Committee research the subject, come up with ideas, have them discussed with the public and then come up with a balanced approach? We need basic guidelines. Your choice will forever affect the community and the perceptions of the Town by the people that live here. Thank you.

- Ed Kost, 230 Sundance Lane: Mayor Jones, members of Council. I was going to ask questions about the punch list at Cannery Village, but it's on the agenda, so I will dispense with that. I only have a comment on engineering proposals and it seems to me that what the Town should be looking for is not an engineering firm. It should be looking for a firm which employs engineers, planners and surveyors; so when you hire a firm, you get all the disciplines that the Town needs. If it needs somebody to review zoning, sub-divisions, you have a planner; on staff there and the planners talk with the engineers; not that you hire two different firms and the firms sometimes dispute the same subjects. When I was on Planning and Zoning, that happened. We had, I think, it was Casa San Francisco; the engineers gave one opinion, the planners gave a different opinion; they're in different firms and they're arguing. That's silly. It was all done in-house, one firm, they argue in-house before they ever appear before the Town and give their opinion. I think what you need is not an engineering firm, but a balanced firm. Thank you.
- Virginia Weeks, 119 Clifton Street: I see you have quite a few amendments to the Chapter 220, the Zoning Ordinance. You have an update to amend Chapter 220 to reclassify home occupation from a special permitted use to a permitted use. I'd like to know if you're going to send that for a recommendation to Planning and Zoning. You have an ordinance to amend Chapter 220 of the Town Code entitled Zoning relating to amendments to the Zoning Code, first reading. I'd like to know is that going to Planning and Zoning for a recommendation; because the other half, you're going to refer to Planning and Zoning, which is to amend Chapter 220 relating to Section 52, Antennas, Towers and Satellite Dishes and also to amend Chapter 188, the Sub-Division for timing process for installation of utilities. You know, so I think there's got to be some set rule that it either all comes to us or it doesn't. You do it all. Thank you.
- Bob Howard, 217 Chandler Street: I'm speaking tonight on behalf of the Economic Development Committee and I would like to announce to the people of the Town and the Town Council, who I think we've talked about it before, a Christmas promotion that we're sponsoring in conjunction with Irish Eyes and the Chamber of Commerce to encourage people to shop in Milton between Thanksgiving and the day of the Holly Festival, House Tour, December 14th. We will enlist the merchants in Town to sign up people for Door Prizes during that period if they shop in Town and that's anybody within the town limits and then the night of the Holly Festival, we'll have an event in the Town Center with entertainment and refreshments in the Town Center with businesses staying open late and music and at that event we'll draw for the door prizes for the people who've registered during that two week period and hopefully that will bring some people into town during the Christmas season to shop in Milton. Thank you.
- Jeff Dailey, 211 Gristmill Drive: Mayor and Council thank you for allowing me to speak. Regarding amending Chapter 220 of the Municipal Code. I'm not going to site specifics, but I'm just going to say that there is a reason that these windows are very large; they overlook one of the most beautiful vistas in a 10, 15, 20 mile radius. If this room were on the other side of the Library, it would have large windows because there again, is another beautiful vista. Anything you do to invite home businesses into town, is

great, as long as you look hard and long. Look at the whole topic, from underneath, so you check out the bottom. Look down on it, so you see the top. Look at every side, because once you make a decision to, as it's worded here, essentially open the flood gates; special permitted use to permitted use, you need to weigh what kind of automobile traffic is coming; what kind of client entertaining, after hours, is going to be conducted in this business; how is it really going to look in context; what will this business do for the Town? Sure we want the money. Sure we want to issue business licenses. Yes. We want to do that. We need to fill the coffers, but at the same time it's a quality of life issue. Here we are again and if you don't look at this and if you take away your right to absolutely look at each individual case; it's the equivalent of taking a diamond in the rough and beating it with a sledge hammer, instead of coming up with a way to really cut it so that in future it will be a magnificent gem. We don't enforce Ordinances in this Town the way we should. It's like this. Two actors on a stage. Okay? They can be giving Oscar winning performances, but if the backdrop isn't there, they're not going to look good. This is why people who make movies look for prime locations, beautiful, quintessential towns like Milton. I wouldn't be a bit surprised if a movie isn't shot here one day, because it's gorgeous here. So you've got to figure out a way to make sure that you hold the reins as we go forward and it can't just be looking for money. That will not serve this Town well in the long run. It just won't. Now, this other issue of the propane farm in Cannery Village. Just another neighborhood. Just another Planning and Zoning deal, but I'm telling you those people on Planning and Zoning are working very hard and they're serving the public very well, but they're not being served well by the consultants and this has got to change. I may... I've learned that I can appeal this decision. I can come to Mayor and Council and I can appeal the decision and I can say everything up one side and down the other that I feel is wrong with the decision. I can do that. I may do that. In the process, I found out what open space meant and I also found out that in one person's opinion, open space with a retention pond in the middle of it, was the equivalent of open space that is solid ground. There's no equivalency there. There is none, because you can do precious little... A community, a neighborhood, can do precious little with a water retention pond, but it can do a heck of a lot with an acre of land that's nice and grassy, an open field and was defined as open space. So this one person, who happens to be consulting Planning and Zoning, says it's a quid pro quo. There's no difference. That moving the temporary pond from next to a retention pond and putting it on flat land that was open space, there's no difference and that's just crazy. What Mayor and Council, in my opinion, should do, is take the entire case of that propane farm. Have your own workshop. Invite the public if you want, but examine everything that was done and you will see that it was wrong. The process needs fixing and the irony is that under our previous Mayor 40 acres of what was to have been the Cannery Village Homeowner's Association neighborhood was sold to Dogfish Head Brewery; no problem. The Town coffers were filled, Dogfish Head is going to be a crown jewel of this Town. No argument there. But the propane farm was supposed to be on that property and where was the Town in the negotiation process saying, well Dogfish Head you're going to have to give us right-of-way, because that's where we planned it. That's where our previous administration's approved the Master Plan and it was never, ever discussed. Never. The Town never intervened and Dogfish Head wasn't going to give up that little bit of space to the developer. Now this could happen in any

neighborhood and it's happened in many neighborhoods. It's got to stop.

- Linda Edelen, 301 Brick Lane: It is my understanding that the Council is proposing an amendment to Code 220-98 and 220-99 to take care of what is a perceived inconsistency in the reading and interaction of those two provisions. I do not see an inconsistency. 220-98 is an enabling statute that says that the Town Council may, on its own motion, present an amendment. 220-99 dictates a mandatory review by the Planning and Zoning Commission. If, the drafters of that provision, wanted to exclude as you do, the Town Council, from referring at their wish a proposed amendment to the Planning and Zoning Commission, they would have done it and it would have been really easy; because in 220-99 every proposed amendment with the qualification, unless initiated by the Planning and Zoning Commission, just add the Town Council and therefore and in that prescription you'd have excluded that review process. They didn't want to do that. They wanted that double layer of review; Town Council and Planning and Zoning Commission. Now if my reading is correct, or if it at least has some validity, Mayor for your review, and the provisions are not inconsistent, then the question is what is the purpose of this Amendment? Because if they're not inconsistent, what you are doing is taking away due process, which is never a good idea; often a very bad idea and always a serious matter. You have an attorney that I greatly respect and admire. He is excellent. He may have given you one interpretation. I'm simply giving you another, as anybody in this room can do, but I believe on this one issue, we would agree. Taking away due process is never a good idea; often a very bad idea; and always a serious matter and I'm requesting that you deliberate with that in mind, removing or tabling the action that you expect to take tonight and give some thought to what you are removing. Due process. Thank you.
- John Oates, 115 Arch Street, Heritage Creek: I have a two-part question and it concerns the top coating of the roads. The first part, maybe Mr. Kerr or Mr. Davis could answer briefly, exactly how that process works. What does it mean when the Town of Milton accepts dedicated roads? And the second part of the question, I don't know who would answer this part, but that part of the question is, if and when our developer top coats our roads, in the current phase that is finishing up, is the Town ready and able to accept the dedicated roads? That's it. I'll sit down, Robin. Thank you.
Robin Davis: In reference to when does the Town take the streets over, after the paving? After everything is finalized, normally a punch list is made; once all that gets cleared away and approved by the engineer and Dustan Russum from Public Works and top coated, the developer will come and request to have the streets dedicated to the Town. At a meeting the Mayor and Council have the right to say yes they're done and on the recommendations of the engineer and Public Works. Then the Town will take the streets over and actually start maintaining the streets, at that point.
John Oates: So the process then is the developer will come to the town. That would be the Town's first heads up, we think we complied with the Master Plan. We're now asking for the engineer's to inspect and review and certify?
Robin Davis: Correct. Everything is done to the plan.
John Oates: So that's the process. What is the time duration of this project? Are we talking weeks, months; how long does that take?
Robin Davis: Sometimes it all is determined by if there's a punch list; if there are things that need to be corrected. The Council only meets once a month, so if the developer

requested inspection and it was done and it was certified that it was okay, then the developer can request to be put on next month's agenda and then it could be reviewed and then if everything turns out okay, then it could be turned over to the Town and the very next day, the Town owns the streets and all the infrastructure and things like that, curbing and sidewalks.

John Oates: Part two of the question, if our developer were to do this and come to the Town in time for the December meeting, is the Town ready to accept the streets; provided, of course, that they comply with everything that they need to comply with?

Robin Davis: I don't know what you mean by ready, but if he meets all the requirements, then we have to take the streets over; so we would be ready; if that's what ready would mean.

John Oates: Okay, that's a fair definition of ready. I'm going towards streetlights for an example. The cost of the streetlights is a big issue. It's a big expense in that development.

Robin Davis: That is correct. We get Municipal Street Aid money once a year, so if the developer in December wanted to turn the streets over and we approved it, we would not be eligible for Municipal Street Aid money for those streets and those streetlights until July, if I'm not mistaken.

John Oates: Well, would that cause the Town to delay accepting the streets?

Robin Davis: There's nothing in our ordinance that says we can stop the dedication of the streets. So the developer has the right at any time to ask for the streets to be dedicated to the Town.

John Oates: Okay, thank you.

- Barry Goodinson, 313 Mill Street: I want to address the whole idea of changing the rules or laws that say currently the Town Council is supposed to refer certain zoning changes to Planning and Zoning. So it currently says "shall". The proposal in front of us right now is to change it to "may" and I'm a little concerned, I'm very concerned about that. I think there are several issues. One I don't think it's the right solution to the problems you're trying to solve. What I'm hearing is that the process is slow and the slowness is keeping businesses away from Milton. I don't think it is the requirement that things get sent to Planning and Zoning that slows things down. I think there are other issues. It may be a need for staff training. It may be a need to change culture at Town Hall. It may be a need to increase the frequency with which Planning and Zoning meets; maybe calling special meetings between the regular monthly ones, but I think this is a brutal tool to use. I think we're using a sledge hammer, when tweezers could be better used. I think, also, that it really flies in the face of checks and balances. I think it's a dangerous thing when a government decides to change their "shalls" to "mays" and I think in any other branch of government, if you were to say you have to have a search warrant to you may have a search warrant. I think it's a very, very dangerous thing when governments start switching out their shalls to mays and as a consequence, I think that this is going to create lots of problems. I think right now, people talk about the great potential that Milton has and when we talk about the potential that Milton has, we're talking about all of the things that have been left alone; that previous generations have created and have done a great job with and if we get rid of the tools that we have at our disposal to preserve them, then we are going to create lots and lots of problems. Individually, certain things aren't a big deal. You have a sign downtown in front of the bank that's too

large, that's not a tragedy. You have the wrong windows put in a building, that's not a tragedy. But together, pulled together, they're going to kill this Town and the charm and the potential of this Town; it's going to be death by 1,000 cuts and if you start pulling other people out of the process, then you're going to have fewer opportunities to catch these problems and these mistakes and I think that's a problem.

- Richard Miller, Gristmill Drive: I feel like the guy who follows the parade, sweeping up after the elephants. I do have a Public Service Announcement. On the weekend of December 6th and 7th in the Sussex County area there's a drive called Operation Cookie Drop Off. The purpose is to take homemade and/or store bought cookies for delivery to Delaware troops who are serving overseas in various theaters. This year Cannery Village will again be a drop off point on December 6th from 4:00 to 8:00 p.m. and if you wanted to drive by Cannery Village we'll receive cookies, again either store bought or homemade and deliver them to a collection point the next day and they'll be packaged and delivered to Delaware troops. Thank you.

Mayor Jones: Would you tell me where we would drop them off at Cannery Village?

Richard Miller: The Cannery Village Recreation Center is located at 190 Village Center Boulevard, that's in Milton, it's directly across the street from Dogfish Head. Thanks.

- Lorraine Wasserman, 244 West Shore Drive: I just want to remind people here in Town that there will be a reception at the Historical Society on Friday at 5:00 p.m. for the Milton Art Guild and we have very good refreshments and a lot of people attending, so if you're in the area, it would be a nice idea to stop in and look at the art work of some of our artists here. Thank you.

Mayor Jones: That concludes the public participation portion.

6. Additions or corrections to the agenda

Mayor Jones: Are there any additions or corrections to the agenda?

Councilman Collier: In the interest of being able to complete the agenda as written, could we move Item 15, Executive Session to right underneath 13.f?

Mayor Jones: Are you making that a motion?

Councilman Collier: I'd like to make that in the form of a motion, please.

Councilwoman Parker-Selby: Second.

Mayor Jones: Any discussion? All those in favor say aye. Opposed. Motion carried.

7. Agenda Approval

Mayor Jones: Now, may I get a motion to approve the agenda, with the change made?

Councilwoman Parker-Selby: So moved.

Councilman West: Second.

Mayor Jones: Any discussion? All those in favor say aye. Opposed. Motion carried.

8. Presentation and Approval of Minutes: September 16, 23, and October 7, 2013

Councilman West: Madame Mayor, I have two corrections. On Page 2 of the September 23rd meeting, it should be Councilman Collier, not Vice Mayor Booros. And on Page 32 of the October 7th minutes, it should be someone, not something. **This change was made. Thank you.**

Helene. That's Page 32.

Mayor Jones: Page 32?

Councilman West: Of 35 on the October 7th minutes.

Councilman Collier: Councilman West, what was the first correction you were attributing to me?

Councilman West: Okay, it's on Page 2, where it says, "Because up where I live, I'd be one of the first ones..." and it should be Councilman Collier, not Vice Mayor Booros. **Please note, this change was made. Thank you. Helene.**

Councilman Collier: Okay, I did say that. Thank you.

Councilman West: Yes.

Mayor Jones: And on Page 32, the correction is where, please?

Councilman West: Just before e. It says "Before we set something to sell." It should be "someone", not something.

Mayor Jones: Okay.

Councilman West: Because something refers to what we're selling. We were discussing someone to sell.

Mayor Jones: Thank you. Are there any other corrections to be made?

Councilman Collier: Move to approve the minutes of September 16, 23 and October 7, as corrected.

Councilman West: Second.

Mayor Jones: Any discussion? All those in favor say aye. Opposed. Motion carried.

9. Mayor's Report

Mayor Jones: Under the Mayor's Report, I really have nothing. I have a line item for something I need to do further down.

10. Discussion of Written Committee Reports

Mayor Jones: We have a written report from Historic Preservation, as well as the Water Committee. We just received the minutes for the Water Committee. The date of your Water Committee meeting, Councilman West, was what day? I don't see anything on these minutes.

Councilman West: Last Tuesday, the 29th.

Mayor Jones: Thank you.

Councilman West: Madame Mayor, there were two things that the Water Committee wanted to bring before the Council. One was the possibility or whether they would be able to tap into the engineering fees that we have on record and they would like to sit down and discuss possible things for this Water Committee and bring it back before the Council to get approval to be able to access those funds. Also, this Ordinance, back to Water Conservation, there is still more discussion on that. So do I need a motion to be able to access the engineering fee money?

Mayor Jones: Well there are some issues on here that I know have been gone over the last couple of years and actually have been defeated in Referendum. Can you give the Council an idea of the fees that you might consider you would need?

Councilman West: At this time, no, because we want to sit down at the table and discuss all these options before we go to an engineer and use taxpayer's money; because we're not just going to go to the engineer to get them to give us answers of things that we already know. It would more likely to be new questions that are arising, as we've met. As I said, before we access this money, we come back to the Council with our plan. But we want to know that we'll be able to access it.

Mayor Jones: So these three items are on the Water Committee's next agenda?

Councilman West: Yes, Ma'am.

Mayor Jones: Okay and you don't need an engineer for these three items?

Councilman West: No Ma'am.

Mayor Jones: Okay. Alright then, I would be satisfied if your next step is to meet and then come back to Council and have an idea of what, in time, you might need. Is that acceptable?

Seth Thompson: I think that would be better, because there's no notice of a vote on this.

Mayor Jones: Right. Exactly. So since you're not really asking Council tonight for engineering use, how about if you do that, meet again and then come back and give us an idea, if you're able. A better idea, if you would please.

11. Department Reports: Public Works, Planning and Code, Police

Councilman Coté: I have a couple of questions for Mr. Russum. The first would be on the... and it's later on in the agenda so I don't know whether we should wait until later on, the punch list.

Dustan Russum: With regards to the punch list, I would wait until later on, because I also have somebody here that's been helping us with this from Pennoni that can help us answer some of these questions.

Councilman Coté: Okay. Well this is a very general question. The punch list is being done in preparation to get the roads paved and dedicated.

Dustan Russum: Correct.

Councilman Coté: Now, it's my understanding that there's some question about whether Lanes will ever be dedicated; or maybe the Town doesn't have a question. They think not. Is this a punch list just to get the roads paved? Or does this cover everything that the developer should have done, and has not done; whether it be on a Lane or a Road or a sidewalk?

Dustan Russum: Everything that is on there, that is a draft punch list and that addresses all items that need to be fixed, or were not done.

Councilman Coté: Okay. Alright. Well, then the specific question is and I didn't see it. Maybe I missed it. The storm drain, the missing storm drain on the corner of where Acre takes a bend behind the clubhouse. Is that in here? I don't remember. I tried to follow it, but I had a hard time.

Dustan Russum: I don't have the punch list in front of me, I would have to look at it.

Mayor Jones: I think we'll be a little more specific when we get to that topic, as well. Okay?

Councilman Coté: Okay. And then on your report, you mention that you drove through the development in a fire truck?

Dustan Russum: Correct.

Councilman Coté: Was that the largest truck?

Dustan Russum: Yes, 85-3.

Councilman Coté: I don't know. That is the largest truck?

Dustan Russum: Yes. That's what I requested and that's what they gave me.

Councilman Coté: Okay and it said that you basically could get around everywhere, however...

Dustan Russum: If there were cars parked in the areas where we needed to make a turn, we would more than likely be over the top of the hoods of the cars or down the sides of them.

Councilman Coté: And the resolution to that is to paint the curbs yellow to not allow any parking there.

Dustan Russum: Correct. Yes.

Councilman Coté: Do we know basically how much parking will be eliminated?

Dustan Russum: No, we don't, not at this time. This was only a recommendation that I have. This is where Pennoni was coming in to double-check. The turning radius' of your circles,

placements of the curbs from your making a right or left hand turn...

Councilman Coté: I know a lot of the corners are tight.

Dustan Russum: Yes.

Councilman Coté: So I'm not sure where the curbs would be yellow and roughly how many spaces that would eliminate; some areas don't use much and some areas use more.

Dustan Russum: Every intersection we came to with the truck, when you go to make that turn, your back tire was going up over or if there was a car parked directly in front, it would be into it.

Councilman Coté: So if you were going over the curb on every intersection...

Dustan Russum: You would catch a car. If a car was parked in this parking spot and you had to make that turn, you would clip the front of the car, because basically when you're pulling up, those trucks have to swing wide, so they would have to get over in this lane to begin with. So if a car was parked over here, it would not be able to make the turn without having to run up over a car parked here or the curb.

Councilman Coté: But you were able to get through without... I assume you didn't run over any cars.

Dustan Russum: No.

Councilman Coté: But how many curbs did you go over?

Dustan Russum: We went over none, because there were no cars parked there. We were able to maneuver.

Councilman Coté: Okay.

Councilwoman Parker-Selby: What time of day was this? Was it when people were home?

Dustan Russum: It was after they got done with Fire Prevention at the school, so it was right around 3:30 or 4:00, when we went through. It was real late in the afternoon.

Councilwoman Parker-Selby: So people would be home or have guests or whatever at that time?

Dustan Russum: Probably not at that hour.

Councilwoman Parker-Selby: Because many times emergencies occur, we never know when, but if it's in the evening and someone had company or what have you for parking; that concerns me, because I would wonder how much parking we'd take away painting yellow if people needed more parking or two or three cars. I don't know. That would concern me.

Dustan Russum: When we get down on the agenda, when we get to the punch list, I've talked about, there are some other options, ideas to look at.

Councilman Coté: Thank you.

Mayor Jones: Dustan, the Council under capital improvement had approved mapping of the water lines, how is that project coming along and has that been scheduled?

Dustan Russum: No, it has not been scheduled at this time.

Mayor Jones: Okay, is it something that needs to coincide with the Water Committee's search for a solution to capacity and the loop and everything else?

Dustan Russum: Yes. We're dealing with Pennoni through this. This is a big part of getting a model of our system, so being able to get this mapping will help us get a better idea of what we need.

Mayor Jones: When do you project that would be the most advantageous time to do that?

Dustan Russum: I'm going to reach out to Jason from the mapping system. I just have a few questions that I wanted to run by Kristy about, because the dollar amount, the process, because it was a \$20,000 project.

Mayor Jones: Okay, thank you.

Councilman Collier: Mr. Russum, I noticed in your report that you reference the intersection of Chestnut Street and Atlantic and Wharton and the work that you've done there thus far. What I don't see you mentioning in this, is the fact, along with the recommendations that you have implemented there was one other with what they call a black and yellow; I think it's a WPP4 Sign.

Dustan Russum: Yes, I have that on order.

Councilman Collier: Right, they're on order and they will be placed. Thank you very much.

Dustan Russum: There was also at the intersections, the one thing I noticed, I'm going to contact DelDOT to see if it's going to be them or us, there is no sign saying Stop Ahead. I road down 88, turned around and came back. I don't know if that would be another option that would help us with that intersection or not.

Councilman Collier: Well what I have learned from DelDOT is that in investigating this problem, that if we want one, we can place it there and they'll be happy to provide it for us. So if you feel that that is a viable thing to do, by all means you have some budget money for signs; please check your regulations and make sure that you place it at the appropriate distance and the reason that it may not be there, is because I think it falls right about in the middle of Walnut Street, is the proper distance to offset it.

Dustan Russum: Probably.

Councilman Collier: So, just make sure that you're at the appropriate distance and if that's possible please, before you order the sign.

Dustan Russum: Alright.

Councilman Collier: Thank you.

Mayor Jones: Anything else for Public Works? I've got a couple of questions for Mr. Davis. You reference a couple of times Shipbuilder's Village seven lot sub-division. Is that the property we were considering on Mulberry Street?

Robin Davis: Yes, that is correct.

Mayor Jones: Over on Page 2, a question, it's about 3/4 of the way down; Casa San Francisco. Discuss process for starting approved project, court mandated settlement agreement. That's been a long time in the works, is that still associated with the application that was made many, many years ago?

Robin Davis: Yes, that is correct.

Mayor Jones: And can you give us an update on that here?

Robin Davis: Due to the issues with Casa San Francisco and Catholic Diocese, the project was halted. Originally for those who probably don't know, it's been several years ago, Catholic Diocese came before the Town and wanted the building where their operation is right now, at 127 Broad Street; they made an application to Planning and Zoning and Historic Preservation to construct a new facility on site; but what needed to be done is the home and the building that was there they wanted to demo it. The property is in the Historic District, so they had to go to Historic Preservation. The application was denied. Catholic Diocese sued the Town and was granted a...

Seth Thompson: I think the parties settled the matter, basically.

Robin Davis: Correct, through the Court.

Seth Thompson: So there's a Settlement Agreement on file.

Robin Davis: Yes. They would be allowed to demo portions of the building. The original home that was on the site would have to stay, but was going to be allowed to be moved to the property

they own on Mulberry Street, across the street. That property is not in the Historic District, but one of the conditions was that any reconstruction on that home would have to follow under the Historic District rules. Again, with the bankruptcy and the issues with Catholic Diocese, the project came to a halt. They are now looking to start it back over again. Due to the Settlement Agreement, that actually has no time limit on it. So basically all agreements that were in place at the time, now they're ready to move forward.

Mayor Jones: Are you free to discuss what they're allowed to do; because I'm not aware.

Seth Thompson: Sure. This pre-dates me, but I've reviewed the Settlement Agreement. The important thing is that the project was underway. They had started some of their construction before having the bankruptcy issues put a halt to it. So Robin and I reviewed what they need to do at this point, going forward and they need to get a new building permit and go through that process. As far as the Settlement Agreement, it's still in affect and it's still a valid agreement. That Settlement didn't expire, but their building permit did.

Mayor Jones: Is there anything in the Agreement that if they move the original footprint, I take that you mean the original home, the one that must have some historic value... If they move it across the street and they fix it up, it's contingent upon Historic District standards. What if they choose not to fix it up? Is it in good enough repair that it could just sit on that lot?

Robin Davis: Yes, it was structurally sound enough, as is.

Mayor Jones: Okay. Thank you.

Councilman Collier: Mr. Davis, just a housekeeping point with your reports, please. This may be me personally. I kind of find it annoying when you reference when you've with someone and all I know is their first name, regarding something that might be town business and maybe that's all they gave you, but in the interest of having a complete record, maybe a last name would be appropriate. I'm not going to point out any particular thing. I think you can find it yourself.

Robin Davis: Okay, I understand. I'll try. Thank you.

Councilman Collier: Thank you.

Councilman Coté: Mr. Davis, on Page 3, near the bottom of the page, the Dogfish House warehouse site visit. Discussed status and the completion date. Anything to report?

Robin Davis: Actually, Mike Glick from Lighthouse Construction, the Project Manager, left a message for me on Friday. They have a temporary approval from DelDOT on the entrance. That's basically what was holding up the project. All the other work on site was basically done. Once the entrance got completed, they finished the landscaping, the stop sign's up and put all the details on that entrance area; so once I get the letter from DelDOT, all the work seems to be done, so the completion date should be at any time.

Mayor Jones: Are you working with Mr. Thompson on the Deed and the parcel owned by the Town there at M&T?

Robin Davis: Yes. I spoke with Mr. Thompson about it just to make sure I was telling the representative from M&T Bank the right information. We found out the piece of property that the _____ parking lot of M&T Bank and the river, does now belong to the Town. It has been for some years. We wrote a letter to the bank and in doing that, we found that part of the entrance for M&T Bank is now on our property, so there's going to have to be an easement made up to clear up that issue with part of the now entrance and parking area on town property.

Mayor Jones: So it's out the back, along the river?

Robin Davis: Correct. That is correct.

Councilman Coté: Are we talking about a couple of feet, or are we talking about 20'?

Robin Davis: It's probably about 10'X50'. The actual piece of land is actually 40'X200' long, so

it's roughly about half of the driveway area, which is about 10' on our property and it goes so far and then the bank parking lot curves around.

Mayor Jones: Anything else for Mr. Davis? Police report? Having heard nothing back from Chief Phillips in reference to the proposed report that came before Council last month, I did bring another piece of paper if you'd be so kind as to pass that to the Chief. That, Chief, is the way of reporting the hours from the department that come from the activity report that was shared with you last month and the format for the police report that was shown to Council last month; so I will ask that October's report be presented in that format that we discussed last month. If you have any questions and would like those formats automatically emailed to you, so that you can work those tables, just let me know.

Chief Phillips: If you could, yes. The only other problem we have is we're in the process of switching over to our Windows 7, because the other Windows is going to be obsolete. According to the State by March we have to do away with those Windows. We have the computers. We're just trying to get time to get them turned on, etc. and it's going to be hard to put this in the program now and trying to do all the computers now, when we're getting ready to change them, so I'm hoping we can try to change them in the next month or so; because if we spend money to put them in the old computers and then try to put them in the new computer, we're going to be wasting money and wasting time, in my opinion.

Mayor Jones: Have you received your new computers from Violent Crimes?

Chief Phillips: That's correct. DelJIS has already got them up and fixed. I just have to get Captain Cornwell to get them all installed; because there are other programs that we have to put on there for evidence pro and other items.

Mayor Jones: Well DelJIS can provide you with the information and then that's just a simple Word document that I will supply to you for the information. Also, have you been working with Mr. Thompson for a camera policy that I was looking for?

Chief Phillips: That's correct. Yes. We're tightening it up and working on it now. It should just be... Hardly nobody else in the State has one, believe it or not. It's hard to believe that.

Mayor Jones: Thank you. Anything else on the department reports?

Chief Phillips: Are you saying that you want me to go ahead and spend the money to put these in the old computer before we get the new ones up?

Mayor Jones: Oh no, like I said, this is a simple Word document. It ought to be very easy to just plug in a thumb drive and work the report on any computer.

Chief Phillips: For the officers, we're going to have to put it on... The way it works, _____ when you sign in, they have their own form, so it has to be put on each one of their whatever it's called.

Mayor Jones: Okay.

Chief Phillips: That's going to be time consuming and also expensive if we don't wait until our new computers are up.

Mayor Jones: Understand for the activity reports, but the report that gives the information from DelJIS you would be able to have that information.

Chief Phillips: Okay. Yes, Ma'am. We can take care of that part, yes.

Mayor Jones: I need to know when you can start the activity report process, though, if you'll keep an eye on that as you install the computers.

Chief Phillips: Okay, thank you.

Mayor Jones: Thank you.

12. Finance Report and Revenue and Expenditures Report

Councilman Coté: We have September 30th and they are unaudited, but soon to be audited. I believe they're starting next week, next Tuesday, so in the unaudited report I think we had a positive cash flow in the General Fund of well not all cash; but there was an actual surplus of \$36,800 in the General Fund and \$52,000 in the Proprietary Fund. In the Proprietary Fund, that includes some of the capital expenditure items that we had, including the new truck. As far as the rest goes, I'll probably wait for the audit and not try to delve into too many details. Let the auditor's do their work.

Mayor Jones: Mrs. Rogers, do you have this report in front of you? I'm on Page 9 of the Budget Transaction Audit Trail. At the very top under Telephone, this is under the Police account, actually, I'm sorry it starts at the bottom of Page 8, the cellphones at \$878.11; I know it has an asterisk, explain to me again; that often means it's been paid out in a different month. Is that correct?

Kristy Rogers: The expense is recorded in August, on August the 20th, but the check was actually cut in September, so that does show on both months.

Mayor Jones: So actually the \$878.11 and the \$692.85 at the top of Page 9 and the \$204.59 PD Telephone, which I'm not sure what that means; they are not necessarily paid out of the same month?

Kristy Rogers: Just the ones with the asterisks were from the prior month.

Mayor Jones: So those are land lines and our cellphones?

Kristy Rogers: Yes.

Mayor Jones: The telephone under cellphones also carries our Air Cards for the computers?

Kristy Rogers: That's correct.

Mayor Jones: Thank you. Chief, can you tell me which vehicle is 7523? It just got a new paint job.

Chief Phillips: I'm believing it's the ambulance, the military vehicle for emergencies; the one that we got from Leso for free.

Mayor Jones: Okay. Thank you.

Chief Phillips: It was covered under grant money.

Mayor Jones: I'll look to our Treasurer, but some of these balances throughout here just concerned me a little bit, so I was very glad to hear you say we had some positive balances at the end. Some of these categories going over by several thousand dollars.

Councilman Coté: There are a lot. Some are over, some are under.

Mayor Jones: Right. I see that.

Councilman Coté: But the net actual was a positive.

Mayor Jones: Good, thank you for that.

Councilman Collier: Chief, I have a question and you may not have an answer, but I notice under Dues and Subscriptions, this kind of just jumped out at me as I was looking through this; that there's a transaction here for a Prime Membership Fee. How much do we buy from Amazon, because I do the same thing at home and I pay \$79 for an Amazon Prime Membership Fee and what it does is it basically entitles me to free shipping on everything I buy?

Chief Phillips: That's correct.

Councilman Collier: I was just wondering, how much we bought from Amazon, is all?

Chief Phillips: We pretty much try to buy everything from there, because we get better pricing then we can from the big box stores, etc. I'm not sure exactly how it works. The captain has to explain. He knows more about it than I do, but if we order printers or if we order, whatever we

order we get better prices because it's a government contract and then we get free shipping with it, that's why.

Councilman Collier: Well, Prime usually gives you two-day shipping, but about two-thirds of what you buy at Amazon you can get for Standard shipping, which is five-day and it's included in the price, so I guess you guys need everything in a hurry. Alright, thank you.

Mayor Jones: Does anyone else have anything else in the Finance Report?

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

a. Water Meter Upgrades – status and next steps

Mayor Jones: Can you give us a report on that?

Dustan Russum: The water meter upgrades, we've gotten a couple of more in, three in this past month. We've made appointments with three, or we've contacted three of the people that were on the list, they're out of town; they're looking at being in town around the holidays and they said that they will contact Greg or myself to let us know when they're coming in; some of this may be on the weekends; whoever comes in does the checks; we'll change out the meter then. We got one church and another place on Federal Street. We've had to get a couple of different special parts to order, due to some old piping. For instance, the old church on Federal Street, some old copper plumbing; so we had to get the right adapters to go on there. That is scheduled to go in towards the end of this week at the church.

Mayor Jones: How many would you say you have left in this grouping?

Dustan Russum: I have three left on residential's, is what I have written down here.

Mayor Jones: Good. Anything else on that?

b. Installation of Streetlights in Preserve on the Broadkill – Phase II – Update (refer to 14j)

Seth Thompson: I reached out to the developer; again I had previously sent a letter and I believe that's going to be one of the topics discussed at a meeting tomorrow, so that's where we are.

Mayor Jones: Thank you.

c. Update on Amend Chapter 220 of the Municipal Code – reclassify home occupation from special permitted use to permitted use

Mayor Jones: Council charged Mr. Davis coming up with a little more information than we had last month and you've given us a package here. Would you like to help us with this?

Robin Davis: Yes, as requested at the last meeting, myself and the Code Enforcement Officer were trying to compile some additional information regarding the home occupations. We have made some contacts with some of the businesses. I had a few questions from a lot of them in reference to I don't do business in town; yes my home might be my office, but I don't do any business in town, so why do I need a business license? That's the majority of them and that came from several of the contractors; yes they might have a truck here, they said; but overall they just couldn't get that understanding that they had a home office here and the question of are you going to make me go to Planning and Zoning just because I have an office? That's the biggest thing. Or I'm only doing it myself. Thing like that, in general, was most of them. Again, I'm not quite at half-way yet for the contacts, but what I did do to get a better

understanding of where these businesses were, I broke them down into different categories. The first section was just a regular town-wide ones, excluding the sub-divisions and I broke them down in alphabetical order to give an idea of the advertising agency, we have one; we have basically 10 or so residential contractors; and things like that. On the back sections you see the businesses that are in sub-divisions. Also, we did some research and actually supplied to Council what three other municipalities and their current rules of how they handle home occupations, just to give the Mayor and Council a little idea of how other municipalities are doing business. As you see, Lewes, they basically have what they call home-based businesses. They have a separate section in their Ordinance that talks directly to the requirements for home-based businesses. A lot of the other ones, you have Georgetown and Harrington, they're classified in Georgetown and Harrington as permitted accessory uses and I think the Town Solicitor basically spoke briefly on that at the last meeting. What you don't have in your packet, I also contacted or actually looked online and went through Millsboro, Milford and Seaford. Those three also classify them as permitted accessory uses; or in Milford's case, straight up permitted uses; which does not require a Planning and Zoning review. They do have requirements. As you see in some of the definitions and using Lewes as an example, they have it drawn out exactly what they say is a home occupation, so also in the back section there is a chart that Lewes uses, which seems to be something we need to look at ourselves. It breaks down all different types of businesses and all the zoning districts in the Town of Lewes. What is classified as permitted, what is classified as a special exception, and what falls under Conditional Use. Again, if it's blank, you cannot do it, so it's either a yes or a no through their rules. You see in home-based businesses on the section, you cannot get a special exemption or Conditional Use for a home occupation. It's either permitted or you can not do it, but you must follow the rules that they have laid out, the requirements. That to me would seem to be the best way. Businesses would then know if I fall into this category, I can do it; if I don't fall in, it's not allowed.

Councilman Coté: It's simple.

Robin Davis: It's cut and dry. It's yes or it's no. It's not, well maybe I can go for something else or maybe I can do this or maybe I can do that. But, again, I will have to do more follow-up with some of the businesses to find out a little bit more information. The Code Enforcement Officer worked last Saturday. I had him go around to the majority of these on the list, the 70 some, just to see what kind of equipment or vehicles were in the yards. He said the majority of these, he would never know that there was a business at the home. There were some that had trucks or some equipment, but again, I would go back to Lewes and Lewes basically says you can have the equipment, but you must put it in a building. You could not leave it outside. So in a sense, it will not cause an impact to the residential features of the home. But again, it's something that we need to look at, but I think this, in a way, gives some of the smaller businesses a way to keep operating without the initial cost or so of going through a process that maybe wouldn't have an impact on the residential area.

Councilwoman Parker-Selby: Mr. Davis, I think you did a great job with this extra research. It certainly clarifies what the other towns are doing and I don't think we have to reinvent the wheel, because many of these are just cut and dry and to the point. People just want to see, what can I do, why should I do this, and I think we should look

at some of these and make Milton fit into the mold some way here. That's my comment.

Mayor Jones: Mr. Davis, what qualifies the title “retailer”?

Robin Davis: On the spreadsheet that you're looking at, that's how the State classifies it. I do not know what their definition means, how they put people under retailer; I would say some of that is probably a Schwann's truck or something like that, maybe, a Hostess truck. I'm not sure, but I would say.

Mayor Jones: Would you be prepared to get the State's definition for “retailer” as it relates to their licensing? Retailer to me, tells me you're selling something. That's all. The other ones that concern me are those listed as travel agencies. Is it possible that you can be a travel agency with a travel agency name and not be conducting business from your home?

Robin Davis: I think it's probably computer-based, most of those would be using the computer as just a go-between for somebody. Yes, the travel agency might have the opportunity to invite a group of people to their home to say okay, I have this package that I want to show to 10 or 15 people; but if maybe we would look at... Again, I would go back to Lewes, that would probably then not qualify that business as a home occupation.

Mayor Jones: I've been trying to look at it in terms of conducting business in the Town of Milton; that's my first criteria, no matter how you bill yourself or where you get your State license, do you conduct this business within the Town limits? Isn't that how we right now license?

Robin Davis: If you have an office in town, yes, you would be obligated to get a license through the Town. I actually contacted Millsboro today and they do the same thing; whether you actually do your business off at another site. I'll use a contractor. If a contractor doesn't do any work in Town and of course, the majority of the work is going to be off-site, or away from their home, the City of Millsboro requires you to have a business license because your office in the City of Millsboro and that's how we classify it, the same way. Some of them do say the same thing. I talked to one individual. They have an office out-of-town, but their mail comes here, so they had to use their home address for the State. Does that constitute them doing business in town?

Mayor Jones: Does anyone else have anything to offer under this topic? You said you are going to continue your review?

Robin Davis: Yes.

Mayor Jones: When you do that and produce the State's definition of these various direct care workers, personal services, professional or personal services unclassified, perhaps the State will offer a definition of how they classify first. You've also stated here that you've been in direct contact with the Town of Laurel, who have the same requirements as listed in our own zoning ordinance. Just for comparison, would you be sure that we get a copy of Milton's home-based, any information we have.

Robin Davis: I think that was given to you the first meeting. I can give it to you again, that's fine.

Mayor Jones: You mean in October's meeting? I believe that definition came in. I just want to be able to look for it.

Robin Davis: In September's packet, I think you did have the Town of Milton Zoning rules.

Seth Thompson: And it is important to look in both the definitions, because there are

certain limitations within the definition of home occupation, so that's in Section 220-6; but then there are also requirements in Section 220-51; so you need to make sure you're looking at both places, because they're kind of spatial limitations in 220-51, but then in 220-6 there are limitations in terms of the type of business.

Mayor Jones: And with that having been said, Mr. Davis, would you supply when you supply additional information to the Council, will you supply those two sections, 220-6 and 220-51?

Robin Davis: I can do that. You had it in your original packet, 220-6, the definition of home occupation for the Town and 220-51. Again, I can do that.

Mayor Jones: Alright, or I can try to hook up one month to the next; that becomes the issue for me, but if you have that available, when you present further, that would be helpful. Does anyone else have anymore comments on this?

Seth Thompson: Just for Council's information, since this involves Zoning, if the Council is going to entertain an Ordinance amending the home occupations, we'll have to go through a Public Hearing and notice it at least 15 days in advance in the newspaper.

Councilwoman Parker-Selby: I just have one comment. After attending today's Municipal Training Summit with many of the townspeople, I am looking at some things they said and one of the things they said was the towns that were being successful in Delaware and in the country are towns who are attracting businesses. One of the things they want to do is and we sit here and we say that, thinking businesses such as restaurants or retail or what have you. Now we're looking at these little fine businesses, like my own consulting, which I don't do anything here. They call me up and I go and run around wherever I have to go and talk and do things, but my whole thing was when we are looking at this, that we're keeping in mind we want to user-friendly or be business-friendly, no matter what the business is and you don't want to turn people off, where people start saying... To be very truthful, I'm considering if they're going to charge me more money, I've already paid \$100 for the business license for the State and then if my town's going to charge me, then I'll just consider not doing it for awhile, being a senior citizen on a fixed income, I'm not going to be paying a lot of business taxes. Anyway I just wanted to throw that out, that we want to be business-friendly, but if we're going to do it, let's do it with the businesses that are actually seen and have things that are retailing or something like that, rather than somebody who writes a letter for someone and puts it in the mail. Just my comment.

Mayor Jones: Just to be clear, this is still as Mr. Davis brings information back, we're not at the point where consideration is given yet to send this to Planning and Zoning for review, is that true?

Seth Thompson: You could do that. I guess that's the reason I mention the Public Hearing element, because obviously this is a process that even at a minimum is going to take a few months, so I don't know if Council wanted to refer that to Planning and Zoning to get the ball rolling on that front. That's certainly within the Council's discretion. It's a difficult task for me to draw something up without having some input. It's not our water conservation issue, where I already know what the Council's looking for and therefore it's easier to draft the ordinance. With something like this, I need more guidance at the front end of the process. If that's on the Council level and/or on the Planning and Zoning level, that's fine with me. I think that produces a better product in

the end.

Mayor Jones: You would be following it with either one of the groups, either Council or Planning and Zoning as they go forward for a recommendation. Has Council considered what Mr. Thompson just said as far as carrying this Chapter 220 reclassification of home occupations, that this may be something that Council may refer to Planning and Zoning and ask for their consideration once more information is offered?

Councilman Collier: I think we need to compile something for them to work with first, rather than just throwing bits and pieces and expect them to shuffle it together and create something. I believe we need to compile and get a direction before it goes to Planning and Zoning, rather than just toss you all bits and pieces and tell you to make something up. It probably requires a little more work on Mr. Davis' part, possibly even as far as what he feels our recommendation needs to be. We need somebody to set a baseline for this thing and then it's up to the Council and Planning and Zoning to review it and fine tune it baseline. Who you charge with the initial presentation of it, I'm not sure; but I'm not sure it should be Planning and Zoning Commission, nor should it be the Council; so we have to look to staff then don't we?

Councilman Coté: Sounds right.

Mayor Jones: You'll be bringing us more information.

Robin Davis: Yes, I can do that.

Mayor Jones: Thank you.

Robin Davis: And Madame Mayor, one more thing. Two additional business licenses that I put in the packet last month, the Village Piano and the Beacon Engineering. We received checks for those businesses and we've deposited those checks. As of right now, we've put a hold on issuing a business license. The money was received last fiscal year. Should I return those checks because of last fiscal year's money and the close out; if we're not issuing business licenses for those people right now, we're holding their money?

Councilman Coté: If you're not going to give them the license, that they paid for, we should return the money.

Councilwoman Parker-Selby: I agree.

Robin Davis: I just wanted to make sure that was the consensus.

Mayor Jones: With explanation.

Robin Davis: Yes. Thank you.

d. Update on method of disposal for surplus equipment and inventory

Mayor Jones: Mrs. Rogers has prepared more information for us in reference to disposal of some auction items. Before you get started, Chief, Leso equipment, which we are going to need to treat differently, have you presented that equipment list to Mrs. Rogers? I didn't have anything added to this paperwork today?

Chief Phillips: No, Ma'am. Still working on it. We'll have it done before the end of this week and have it to her before that.

Mayor Jones: Mrs. Rogers did you want to explain what the Council is looking at here?

Kristy Rogers: Since the last meeting, I contacted two other auctioneering company's. They're both about the same, Walter's Auctioneering and Green Gavel Auctions. They're going to charge between 15% and 25% commission fee to come into town and to perform the auction services. They also have the same guidelines of the advertising. It's

about \$1,000 to run ads in the Sussex Guide and the Delaware State News for two weeks. Neither company charges a buyer's premium. Both of these auction firms go along the same lines as the Wilson Auction, but the difference is for Wilson we would take the items to Lincoln vs. having everything handled here in Town limits. The last option we discussed in Town Hall, was the possibility of posting the auction on our own. Having town employee's conduct, clear a spot over the course of a week, have all the items for display, advertise it for a few weeks, letting anyone interested know, they could stop in town for four days to view the items and then submit bids to the Town, then on a Monday open all the bids, view the highest bidder and dispose of the equipment that way. We would not be paying an auctioneer for their services. Any revenues would be in town, for use in the budget, so that's the last option that we have.

Mayor Jones: I applaud your initiative in keeping it in house. Couple of questions. Do you feel we have the manpower to conduct an auction like that ourselves and what would be the remedy for items that were not sold?

Kristy Rogers: I think for items not sold, we would probably use the same process if an auctioneer came into town, it would go for scrap, or disposal. As for the staff, I think we have the staff for the items that I have received, I think we have a large quantity that we could not handle.

Mayor Jones: I know that the Chief submitted last month some vehicles. Have you begun the process of stripping those down?

Chief Phillips: No, Ma'am. I was waiting to see where we're going with this and find out where we're going to get the money to do that, other than my budget. It's probably going to be about \$200 a car to get the striping... if you want it all off. If we just take off what needs to come off, we'll be alright. It won't be that bad.

Mayor Jones: And the computers and the cameras and everything out of the inside, have you started that?

Chief Phillips: No. I wasn't sure which way we were to go.

Mayor Jones: Okay.

Chief Phillips: Can I make another suggestion, just out of curiosity? Are we going to put a price on some of these things so they don't go unreasonably away for nothing; or are we going to put some sort of price on it, one way or the other? Because, if not, I know we can put it on the internet and make a lot more money, because there's a lot more people to pick from it. Like the police cars, I know that in the past we've sold them to a junkyard and they'd give us \$500. One of them we sold for \$1,500, the other one sold for \$2,000, because there are people that collect them and they'd be glad to come pay top dollar, where we're not going to get that locally as much. That's just a suggestion on some of those items that may not sell like we want them to. There are some items, like the street sweeper that we need to load that personally and take it over to a junkyard and see what we could get for it. There are a few items like that that are obsolete or broken down and we can't get parts for them, that we need to think about just using the money... gaining the money by selling it as scrap, because that's what most of it is. But we can talk about that later on, I guess.

Mayor Jones: I think we'll discuss further with the town staff about pricing. I don't look for the town to give them away, but I appreciate your comments. I would say for the three vehicles that you have noticed as going into this auction, though, I would ask you to start disassembling the electronics and technology and whatever needs to be done to

be ready to move. Once Mrs. Rogers has that Leso list, we can look at a complete grouping of what we have to go.

Chief Phillips: What I'm doing is I'm taking photos of everything we have so we have photos for a couple of reasons. One for a paper trail for what we get rid of and also another one that you can use... I'll email it to her and she can print them up and use them for advertising or at least have a book so someone could come at it and see what we do have and what we don't have. Do you wish me to sub this work out or just have it taken out ourselves, as far as the equipment goes?

Mayor Jones: Who would you have take it out?

Chief Phillips: It would be either Lieutenant Harvey or Captain Cornwell. It would be easier and faster and cheaper in the long run to have them take it out, then it would be to take it to a radio shop and have them remove it. I'm just trying to save us money in the long run.

Mayor Jones: How about you let me know your pricing on... if that becomes overtime, to take the equipment out vs. taking it to whether it be Bridgeville, the radio shop, wherever we used to take them.

Chief Phillips: In one day, we could get everything taken out that we have to take out in one day, eight hours; as far as not necessarily the cage, but as far as the other equipment.

Mayor Jones: We can discuss that further as we get closer to setting up a date.

Chief Phillips: Okay. Can we set up having a meeting next week, me, Dustan and her, maybe you or whatever, they need to be there so we can set up and try to get our ducks in a row and work on things together?

Mayor Jones: Alright. First let's get the list to Mrs. Rogers for the equipment that's left out there.

Chief Phillips: Okay.

Mayor Jones: Anything else on the auction?

e. Update on punch list for Cannery Village

Mayor Jones: Mr. Russum is this the list that was turned over to Pennoni by the Town?

Dustan Russum: Yes, this is just a draft list. These items were items that were seen, that caught our eyes. This was done to save a little bit of time and money. Now we're in the phase of Pennoni going through this and double-checking the items that are on this list and picking up things that aren't there, that are on the plans. As in reference to Councilman Coté about a storm drain that is missing by the clubhouse. With us tonight I asked Carlton Savage from Pennoni if he could stop by to help explain the next process and where we're at with this development on the punch list.

Mayor Jones: I have a couple of questions first just for you. I see a lot of remove and replace, remove and replace sidewalks, curbs. Does this mean that they've been damaged somehow since they were put in?

Dustan Russum: Yes.

Mayor Jones: Damaged?

Dustan Russum: They could have been damaged when they were building the house, riding the large fork lifts up over the curb. That's usually when they're damaged is when the house is under construction.

Mayor Jones: So did this community put out curbs and sidewalks on unimproved lots? Is this how this happened?

Dustan Russum: Your curbs go in as part of your beginning, right after your infrastructure of your storm drains, water and sewer laterals; you lay your curb in before you put your base in. It's all part of your stormwater.

Councilman Coté: But the sidewalks don't get built until the houses get built. That's the way they've been doing.

Dustan Russum: Correct. Yes and Robin just stated we won't take over the development until all the sidewalks are in, like we did out at Wagamon's West Shores. If there's no house there, they're still going to put a sidewalk in before we take over.

Robin Davis: That's one of the requirements in the Code. We cannot take the streets over until all the infrastructure is done, so the sidewalks have to be done, so all those empty lots out there now after the developer tomorrow wanted to turn the streets over to the Town, we would require him to have those sidewalks done; even though there's not a house on the lot and when the house gets built, we'd have to at final inspection, if there's damage to the curbing or sidewalk, then the builder would have to repair that before a seal would be given for the house.

Mayor Jones: Does that mean that we basically decide for the unknown property owner which portion of his lot the driveway is cut into?

Councilman Coté: Most of those, the driveway is behind the house and there's no curb on the lane. But in the section called New Work, the storm drain doesn't appear to be there.

Dustan Russum: Correct, as I stated, this was just a draft. This was what was visible to the eye and this is where items; I'm sure there might be another item or two that might have been overlooked. I did look at the drawings, but there might be some items and that's where the engineer now is looking at this and reviewing this.

Councilman Coté: Okay, well, we know the easy one that they can fix is on the New Work, 304 Gristmill, doesn't need a sidewalk? It has one? 306 Gristmill does not have one and I'm not sure on that same page where 109 Village Center Boulevard is. The first address is 110.

Dustan Russum: Okay.

Councilman Coté: So I'm not... It's looking for a curb. The curb's in front of 190.

Dustan Russum: On Village Center Boulevard where the curb was messed up was down just shortly passed the clubhouse on the left hand side, if you're coming from Dogfish in; I know there's an issue there, some curbing that was missing around the radius.

Councilman Coté: I don't know. I don't know what's missing, I just know there probably isn't a 109, because lot 109 I think is at the corner of Sundance and Gristmill.

Sometimes we use the lot numbers and sometimes we use the house numbers and the leaning towers of light pole. Does that go on here or not?

Dustan Russum: Carlton can answer that for you.

Councilman Coté: Okay and there may be more, those are just ones that I noticed.

Carlton Savage, Pennoni Associates: Good evening Mayor and Members of Council. Basically I'm going to give you an overview of what we do from here with the punch list. Basically I have an inspector out in the field. He started last week and he went to each one of these issues and I'm having him take a picture of each one, document on the plan where the issue is, to confirm that, in fact, it is an issue and two, that when the contractor fixes a problem, we have a picture before and after that documents that the problem was fixed. That's going to take a few days to go through each one of these

issues. I've also instructed him as he walks to note any new issues that have either come up in the meantime, or in fact, it's something that Dustan and the contractor that walked it, may have missed, overlooked, or maybe it was an unknown engineering issue that they didn't pick up on. Once we've documented all the existing problems, the contractor will come out; in fact he's actually been out there, one contractor, A. P. Croll has been out there last week, 3 or 4 days and fixed numerous amounts of these items. I tried to get out there before he did, but he didn't notify us in time, so we kind of missed the initial twelve items. I did inspect those items briefly. He went through each one with me out in the field and they looked like they had been corrected, but I'll have a list of exactly which ones those are. Once the contractor does start addressing the issues, we will follow up behind him, probably with Dustan as well, and make sure that each one of these things gets corrected. So that's kind of the process going forward now. I'll add these 3 or 4 items, Councilman Coté, that you've added to the list.

Councilman Coté: I guess back to the general question and I don't know whether my memory is just alluding me or we said we would get to it now; when we do this punch list, is this for dedication of the roads, or is this for the whole plan that everything in the plan is done, including and I didn't think it was in here either, that low spot that's affectionately referred to by some of the residents as Lake Dorsey; where the storm drain is at the high spot in the road and they can get 8-10" of water sitting for days?

Carlton Savage: Is this behind the clubhouse?

Councilman Coté: No. No.

Dustan Russum: It's down and to the right.

Carlton Savage: I did speak about the one behind the clubhouse with A. P. Croll.

Basically he had mentioned that there was a revision to the plans, that happened with a gas line. I have to go through the plans at this point and figure out where that revision came. He feels and I can get you the name of the Superintendent that was out in the field, A. P. Croll; he feels that they eliminated a pipe and if that's, in fact, the case then the manhole does not have a drain. I don't foresee that being the case, but maybe it was overlooked during plan review or something, so...

Councilman Coté: I think I spoke with that same gentleman and he's the one who bricked it off at Village Center Boulevard.

Carlton Savage: Exactly.

Councilman Coté: Now the gas line, just thinking out loud, the gas line is going to have to go down under that same road, is that correct?

Carlton Savage: It should be there, actually.

Councilman Coté: Because that's where they're going to put the tank farm.

Carlton Savage: Yes. That's one issue I have to look at. I have to actually look and see why, in fact, that he told me the same thing, the manhole was bricked up, the catch basin itself, therefore, has to exit or discharge pipe going to the manhole that's out in the street. So I'll look at that during the review.

Mayor Jones: Under remove and replace H/C, it would only be a guess, is that a handicapped curbing? What is that? Remove and replace; is it broken? This shows up all over the place. Do we not have them?

Dustan Russum: No. A lot of the handicapped areas out there between the sidewalk, concreted is missing. A lot of them are the wrong grade, or the wrong percentage of what they've got to be; they're too steep, so therefore they would have to remove these

handicapped crosswalk areas and put them to the right percentage of fall.

Mayor Jones: How did it all get built at the wrong percentage of fall to begin with?

Dustan Russum: That was before my time.

Mayor Jones: That's not the answer. I was going to ask when so much of this work was done, but I'm sure it was done in phases, but it's remove and replace handicapped curbing in so many places, which would indicate that it either time after time after time, was permitted to go in incorrectly; or it all went in at once incorrectly. There must be an answer.

Councilman Coté: At some point, we had asked, or I had asked Mr. Davis, to pull out all the approvals for that work and he had begun and was part way through. I don't know if he's finished, but we would see that if we looked at those documents. I assume he's still here somewhere.

Carlton Savage: If I can add to this, the items that are on this punch list here are basically deficiencies that the contractor has to fix, that are... maybe it's not that you can't get a fire truck around; he built the plan per the approved plans, or built the subdivision per the approved plans. These are items that he has to fix, that are cracked curb. He's responsible for that curb until which time that the roads are dedicated, so he needs to come in now and even though he may have not been the person that ran into the curb, he's responsible for fixing it.

Mayor Jones: I completely understand that. I'm talking about removing and replacing an awful lot of handicapped curbing, which again, I say if this went in in phases, either the fault was repeated over and over and over, or it all went in at once with one big calamity. I need someone to answer how this happened. I believe you'll find that these developer's will have an awful lot of push back and an awful lot of questions about how long this has been sitting for so long without being notified it was in violation.

Carlton Savage: I can tell you that the developer has seen this and my understanding is that he's approved this list.

Mayor Jones: It's your understanding he has approved this list?

Carlton Savage: I have not spoken to the developer, but I have spoken to the contractor who did speak to the developer and they approved this list. My understanding they'd remove anything and are more than willing to come in and fix these items.

Councilman Coté: Excuse me, I find that difficult. I think that's a misunderstanding.

Carlton Savage: All I can do is explain that that's what I've heard from the contractor that was out there with Dustan.

Councilman Coté: I don't know about the contractor, but I think the developer is more want to argue over... and particularly one of the things they might want to argue about, are the sidewalks on the unbuilt lots. There's a piece of sidewalk that runs across the street; there are no houses on that side of the street. It abuts the Dogfish parking lot and there's a sidewalk there. I don't even know why we actually need a sidewalk there, other than at some point there was going to be a road into another phase of the development, which doesn't exist anymore. So I would think and I use the Mayor's word, I think there's going to be more push back from the developer than what your comment indicated.

Mayor Jones: There's just a curiosity question. This list was compiled by a member of the town staff. It was just newly turned over to Pennoni to verify, confirm, agree or disagree. Why would anybody in Chestnut Properties have a copy of this list yet and

how would they have received it?

Carlton Savage: I was not part of the initial walk through that went through. Maybe Dustan can give more insight on that.

Dustan Russum: This was put together by me and Horsey Construction. I did not give this to the developer. The developer knew that we were working on one. This must have gotten to them through Horsey Construction and I was to the same understanding as Carlton, that when the developer looked at this punch list there was not really any push back from him on these items. He did not see anything that really stood out.

Councilman Coté: I would really like to be wrong.

Dustan Russum: Carlton and I can only tell you what we have been told.

Councilman Coté: I'd like to be wrong, but...

Mayor Jones: Another question then. In what capacity did Horsey Construction participate with the Town of Milton to build this list?

Carlton Savage: Horsey was, I don't want to say "hired", but was contacted by the developer as a private... they did not build the sub-division, they were a private contractor. They were contacted by the developer to come out and do a punch list of items they thought and they were going to make money off these items; they're going to do the work; the developer's going to pay them for the work. In that aspect, why would they cut corners? They're going there to get work. Dustan also was out there on behalf of the Town to go through each item and say I don't like this, or what's wrong with this, those type of items. I was not part of that initial walk through. Basically the developer is going to pay for this work to be done. He's paying to make the Town happy. That's why the punch list was created the way it was.

Mayor Jones: Well I completely understand, but how will it be advantageous to the Town of Milton to engage an engineer to review this list, if what you're indicating here is that they're satisfied with it and starting to work on it? This doesn't make any sense to me.

Councilman Coté: The A. P. Croll work that was done, from my understanding in talking to the gentleman out there, was that they were fixing the things that were basically the worst violations; they were the original contractor. They were fixing the original things that were in "most wrong" and they were doing it at their expense, so the developer didn't pay for any of that, any of the dozen or so items that have been done.

Carlton Savage: Correct, that's my understanding, as well.

Councilman Coté: Has there been any effort to compare this list to the one that was done two years ago?

Dustan Russum: We couldn't decipher the way things were put on the list, so we started over from square one.

Councilman Coté: Okay and the conversation we had, you said that you marked up the plans and did you or Town Hall type this up, or did Horsey?

Dustan Russum: I wrote the list as we were in the field and it was typed up. They took the list and they typed it up.

Councilman Coté: Okay, so that would be how the developer got their copy. God knows I'd love it if they were just going to agree to everything and do it, but that's not what I've heard them say.

Mayor Jones: When do we anticipate having a final list reviewed by our engineer to present to Chestnut Properties for fixing the punch list?

Carlton Savage: My initial goal was to go out there in the field with my inspector and like I said, document each one of these items, as well as if I see something that's additional. The additional items would be added to this list and in my opinion, he's already agreed to this list; the additional items that I would find would have to be given back to them, for them to agree to that list. On the side of you mentioned earlier about what is the advantage to the Town having an engineer review this, the developer ultimately will pay us for the punch list and review. It's not coming out of the Town's money, so in essence, we're working for you, through the developer. My goal is to make the Town happy with the list that I prepare, but at the same time, the developer has to agree to the items.

Mayor Jones: I'm going to make another comment, but I'm going to wait for Council to finish the discussion. Mr. Kost, actually I may recognize him as a point of order, simply because he's been in with the Council and has passed on some information keeping up with the progress out there. I'm still concerned that we are hearing Cannery's developer's have started on this list, without Milton really having had the advantage of an engineer not only scrub the list that we have, but possibly add things that we may have missed to the list, so I'm still feeling like we're not working from an agreed upon list with the developer and it seems like work has begun quickly. How will you track that if we don't have an agreement between our two parties on the points to be worked on? Mr. Kost, will you be brief?

Ed Kost: Yes I will. My only comment is the responsibility of the Town, the responsibility of the engineer, is to take the approved sub-division plans, make sure that those streets meet what was approved. That's their job. Once they produce that list, you're done. Do you agree? That's the job. And what the developer's contractor has to say is meaningless. The only thing that counts is what was approved and that's what gets on the list. I think that's what the Town has to focus on.

Mayor Jones: Then that would be the list that is presented to the developer for completion.

Ed Kost: Absolutely, if they were going to do the performance bond they would take that list, put dollars to it, multiply by 125% and that equals the performance bond. If you go down that route, that's where the number is going to come from, that list is critical. It's based on the plans.

Mayor Jones: Thank you. I didn't get a time frame yet when Pennoni expects to finish their review of this list and anything else that they may discover.

Carlton Savage: I currently have one employee out there. I'll see if I can allot another person, if it's needs to be expedited, but given the amount of items I walked the first day myself and it does take some time to review each one of these, pull the plan out, orient yourself on where you are on the plan, what was supposed to be done. It is pretty extensive. I would like to say 2 or 3 weeks probably would be an initial inspection, with probably some questions that come back simply because there's items like the handicapped ramps, that if you want a thorough investigation, we've got to physically measure each one of these, get the percentage slope. I know some initial investigation was done, but it depends on how thorough you want this investigation to go. I, personally, was out there on one street and there were several cracks that I would say were not acceptable, but it's a fine line as to what is acceptable, reviewing the Code, reviewing the plans; maybe pulling some tape measures on roads and make sure they are

built properly. There are several items that could be at fault here, so I'd say a few weeks to do that initial investigation.

Mayor Jones: Okay, we'll definitely have an update in our December meeting. Any other questions on the punch list?

f. Update on engineering proposals

Kristy Rogers: At this point, we have selected a few firms to interview. That was going to take place this Thursday, but it may need to be rescheduled.

Mayor Jones: Thank you.

15. Executive Session

- Preliminary Land Acquisition
- Personnel matters in which the names and abilities of individual employees are discussed in relation to police retention
- Personnel matters in which the names and abilities of individual employees are discussed in relation to performance evaluations

Mayor Jones: I'll entertain a motion to go into Executive Session.

Councilman Collier: So moved.

Councilman West: I'll second.

Mayor Jones: All those in favor say aye. Opposed. Motion carried.

Mayor Jones: Motion to come out of Executive Session.

Councilman West: I make a motion we come out of Executive Session.

Councilman Collier: Second

Mayor Jones: All those in favor say aye. Opposed. Motion carried.

14. New Business

- a. Request from Fernmoor Homes for a partial reduction of the bond for the completed work in Phase 2B of Heritage Creek

Mayor Jones: You have in front of you a letter from Fernmoor Homes dated October 17th. This is a request that an inspection be performed by our engineer, Mr. Davis and that was done on the 29th of October. Did anyone else get the CABA Associates recommendation in their packets?

Councilman Collier: It was delivered to my home. I have it yes.

Councilman West: I have it.

Mayor Jones: I don't have it.

Councilman West: Because I have one question on the engineer's report, for Mr. Kerr. Mr. Kerr, you have on here to not reduce the bond below \$200,000. What's your recommendation that we reduce the bond to?

Bob Kerr, CABA Associates: \$200,000.

Councilman West: Okay, I just wanted to make sure that that was correct, because I didn't know if you wanted it to be more or not.

Bob Kerr: That's always your choice, but I would recommend you not go below \$200,000.

Councilman West: Okay.

Councilman Collier: Mr. Kerr, do you believe that the difference between \$200,000 and the figure you have at \$187,000 and change is sufficient enough funds to cover this issue that you've mentioned, the paragraph above concerning whether they passed proof rolling on the base?

Bob Kerr: I believe so. Yes.

Councilman Collier: Okay, thank you. With that being said, we need a motion to set a bond amount? I'd like to move that we reduce the bond to \$200,000.

Councilman West: I'll second that.

Mayor Jones: Any discussion? Mr. Kerr, what does it mean in paragraph 2, actual quantities were not measured or computed?

Bob Kerr: As an example, they may say 850 linear feet of curbing. We did not go out and physically measure that there's 850 linear feet of curbing there; but if an entire street has been done, we assume that it's 100%. If there's some gaps, it's 5% to go. We did not take the time to determine whether it was 849 or 851.

Mayor Jones: We have a motion and a second on the table to reduce the bond for Heritage Creek to \$200,000. Is there any further discussion? All those in favor say aye. Opposed. Motion carried.

b. Final Land Acquisition

Mayor Jones: The Town has been considering a parcel of property to acquire for the purpose of expansion or annexation of our Town Hall property. This property is located at 112 Federal Street here in Milton. We right now have a preliminary agreement of sale, contingent upon home inspection, termite inspection and vote of Council. I can tell you even before the vote is taken, the idea of this property and it's expansion was number one, it's location directly across from Town Hall. The lack of availability of property in that particular corridor of Town Center at L-shape up Union and Federal and a need for the future, as far as Milton's expansion. It's very difficult most likely to get the resale money out of the investment that has been made in our current Town Hall, so the idea was instead of looking for other property for an expansion of Town Hall per se, this piece of property was looked at by the Council. My mistake, this agreement is listed as a purchase price of \$150,000.

Seth Thompson: And if the Council has any questions from me, in terms of interpreting the contract or anything, I'm certainly hopefully ready to answer.

Councilman Collier: I, myself, am pretty clear on the contract. Maybe I'm rushing this, maybe I'm not, but I'd like to make a motion that we move forward with this at this time.

Seth Thompson: And Councilman when you say move forward, do you mean that you are making a motion to approve the contract?

Councilman Collier: I would like to make a motion that we approve this conditional sales contract with all terms contained therein.

Councilwoman Parker-Selby: With all the discussion and considerations and being a Miltonian for most of my life, all of my life, understanding why we should look at this type of investment, I am going to second that motion.

Mayor Jones: We have a motion and a second to approve the agreement of sales with the contingencies listed. Is there any further discussion by Council? We're going to do this in a roll call vote and the Solicitor has requested that we give reason why we believe this

purchase is a good idea:

Councilman West

Madame Mayor, I'm up in the air about this. I have my reservations with the financial shape the Town is in. If we can really afford this, or not. But opportunities don't come along very often as well stated, but at this time I have to vote no until we're in a better financial situation.

Councilman Coté

Yes, I'm having the same dilemma that Councilman West has. Doing this will use up a good portion of whatever savings or cushion we have in the General Fund. I think it's an opportunity; you don't get to take advantage of a bad real estate market too often and I'm having a real dilemma on what to do here. It just uses up a lot and whatever the unknown is, the future costs of whatever we might need to do to that property to make it functional for whatever the uses might be; whether it would be for more office space, parking, whatever. We don't know the cost of those things and it uses up a lot of the safety net cushion money that we have. I'm struggling with this enough, you'd think it was my money. It is my money. I'm a citizen. I'm not falling asleep, I'm thinking. We do have enough money to take care of the contract, it will just eliminate roughly a quarter to a third of whatever cushion we have. Unfortunately I could probably sit here all night gnawing on it. Because of the unknowns I'm going to say no.

Councilwoman Parker-Selby

I realize how you feel and I've also sat in meetings and listened, still learning a lot being still new. I say I'm still new because I am, but anyway in looking at the arguments and the things that went on with the first building we now have as Town Hall and I wasn't involved at that time, but now that it's there and realizing real estate values now, it's the time to buy, I'm one who believes in taking chances when I can and I have and when it comes to investing and looking for the future, I think this would be a good idea because of the price. It is my understanding that we can get this money back through some of the taxes and so forth that we'll be getting back in. I don't think we need to ignore the fact that Milton, right now we do not have a lot of options and it would be far more expensive to

build in order to, say for example, bring our Chamber closer to our Town Hall. Today's meeting also opened my eyes to a lot of things with municipalities and I'm glad I went, because it kind of gave me another insight tonight as we are finalizing our discussion about this and that is that my father always said, you either change with change, or you will be changed by change. Right now I feel that's what is happening, because changes are occurring all over the place in all the small towns and cities that they gave examples of today, it showed that they took chances and things were now beginning to boom and if you have an opportunity to get real estate, even personally, now is the time, rather than sit back and say we should have done that when we were talking about it. This is my feeling and my philosophy. At this time, I will speak well to think that yes we need to take this step and I'm also thinking of how we can possibly use that property, rent it to people, groups or what have you for various events to help get money; our Chamber needs to be closer to us. I'm one who believes if you're going to be a unit, you need to all be together, working together as a team. We'd be closer to the Historical Society, we'd kind of be a little center, our town center and this will help boost people coming in, wanting to know where the Chamber is and where our offices are. We're close together and then we can guide our visitors that you can go right across the street. People like that. So I think to attract and to be into the 21st century, we need to think positive and I'm willing to take that chance. Yes.

Councilman Collier

Well I have to tell you that I agree with everything that everyone said up here, so far, but I can also tell you that I have sat in many of these meetings over the years. One thing that keeps coming to my mind is people talking about there needs to be an investment in the downtown and previous Councils thought they would invest in the downtown by building things like the Governor's Walk; they purchased the Town Hall downtown when they could have gone elsewhere; instead of moving the Police Department to a different part of Town, they maintain the building for them and continue to invest in that and I think that a Council

and a Town should lead by example and what better example than to invest some of everyone's dollars, our taxpayer dollars in the downtown and try and preserve some integrity of it, as well as further it with improvements. I view the building with the potential to be a future annex to the Town Hall. There's some property behind it that could be very well converted to parking, which would allow greater access to our Town Hall and maybe it's future annex. The property also includes a piece of the river front and the river front is very important to the people of this Town. You hear that touted over and over and over again and if we own it, we control it, so therefore I think we need to step our on the limb a little bit, take the chance and I vote yes.

Mayor Jones

And I have to agree with Councilman Collier. All good points made by council members and even though I find entering into an agreement of buying another piece of property quite scary, I also believe that it is part of a vision for the Town of Milton right now, at a cost that is affordable. It's impossible to imagine that we would be able to shed ourselves of our present Town Hall, considering the investment that is inside of that building. Rather than build a town annexed on another piece of property, calling it a campus at another location in town, it seems to me that purchasing a piece of property right there in our quick vicinity makes very good sense; with a possibility as Councilwoman Parker-Selby stated, perhaps being able to include and bring into the town area, our Chamber or our Art Guild or the use for our own expansion of office space. So for these reasons and I am encouraged that we do have a bright future and I believe we're going to need the space for expansion, my vote is yes and thus all votes taken, the motion is carried.

c. Security Fence Installation

Mayor Jones: Mr. Russum do you have an update for us on that?

Dustan Russum: Yes, I met with Vice Mayor Booros a couple of weeks back. He sat down and talked with me in the office. He asked me to reach out to different government properties, such as Dover Air Force Base, to see who did their fencing. It was actually Long Fence that did their work. I contacted them to of course, naturally they were able to do government work because they did the air base. I called the Georgetown Airport.

That is actually done through Sussex County. I contacted them and they gave me a list of a couple of different contractor's that do work. I reached out to them and actually one company is only three miles up the road from here, they do government work and Vice Mayor Booros told me that he would be in touch with me and we would sit down and redo the plan to send out to these contractors. I even got some word back this morning from Wallop's Island on who the contractor is that they use.

Mayor Jones: Thank you.

d. Appoint Board of Elections

Mayor Jones: Mrs. Rogers has so cleanly advised us that we do have an election coming up in March of 2014 and I present to you nominations for the Council's consideration for the Board of Elections this year:

Inspector Lynn Ekelund
Judge Bob Howard
Judge Susan Mathey
Judge John Oates
Judge Kathleen Garde

Alternate Inspector James Jefferson
Alternate Judge Barbara Wagner

Mayor Jones: All appointments would be contingent upon the completion of Ethics Forms and these are the names I offer the Council for your approval and/or recommendations.

Councilman West: Madame Mayor, I will make a motion to appoint all these people that you just mentioned contingent on the completion of their Ethics Forms.

Councilwoman Parker-Selby: Second.

Mayor Jones: I have a motion and a second to accept the names read. Is there any further discussion? All those in favor say aye. Opposed. Motion carried.

e. Exempt Tax Status of the American Legion, 105 Bay Avenue

Mayor Jones: Mrs. Rogers this group has come to you to make this request? You have some information for Council?

Kristy Rogers: Yes. I received their documentation of being recognized as tax exempt as a non-profit from both the American Legion National Headquarters and the Internal Revenue Service. I also contacted the Sussex County Treasury Division and the Assessment Department and as of this year, they have also recognized them as being tax exempt. They didn't know if we would also comply as the Town of Milton and recognize them as being exempt.

Mayor Jones: Up until this year even County was charging them? Is that correct?

Kristy Rogers: That's correct.

Seth Thompson: Madame Mayor, if it's helpful. I took a look at Title IX and Section 8106 specifically identifies American Legion Posts as being tax exempt from County taxes, as well as other political sub-divisions, so they really should be tax exempt. It's a shame they didn't bring it to the Town's attention earlier, but just so the Council is clear,

not every tax exempt organization under our federal tax laws would be exempt from that. That's not the end of the inquiry, but here the American Legion Post is exempt under Title IX and therefore exempt under us.

Mayor Jones: So we're flush, up until now. We would only need to excuse them from the taxes in 2014, is that not... You're shaking your head.

Councilman Collier: I only have one question. Normally in a situation like that, we're talking about property taxes, are we not?

Seth Thompson: Correct.

Councilman Collier: Well as I read this letter, they only occupy the building and it's owned by a separate entity, so I have to assume that they are the tenant.

Seth Thompson: You're right about that. I mean the property taxes are taxed to the owner, so if their letter is correct...

Councilman Collier: So are we exempting the owner or are we exempting the tenant?

Seth Thompson: You're right that it should be land owned by the American Legion.

Councilman Coté: Do we know who Post Realty is?

Kristy Rogers: No.

Seth Thompson: We should get that clarified. I wonder if the County was aware of that, because that...

Kristy Rogers: The County record matches as it being deed to Post Realty.

Councilman Collier: That's my only concern, because I'm assuming that the tax bill goes to Post Realty, so I'm assuming that they rent it at a rate at least enough to cover the taxes. So that's why I wonder, who are we actually exempting... This is for property tax, because there is no other tax other than that, so I'd like that clarified before we move forward on that.

Seth Thompson: Correct.

Mayor Jones: Are you requesting this be tabled until we get more information?

Councilman Collier: Yes, I am.

Councilman West: I'll second that, because a lot of times the Post Realty is more than likely the members of the American Legion, because a lot of your organizations, your churches and all, the members own everything and then they just call it a separate name.

Councilman Collier: That may be the case, but I would just...

Councilman West: Yes, but I agree with you Councilman Collier.

Councilman Collier: It reads... I have no idea who Post Realty is.

Councilman West: Because some organizations will call it a House and Hall Committee and every member of that organization is a member of the House and Hall Committee and that's the way they're set up and because I have heard from some of the people that, the older members that started this Legion, that all of them were members of Post Realty.

Councilman Collier: Okay, well just a clarification for me, because it makes me scratch my head, that's all.

Councilman West: Like I said, I agree with you Councilman Collier.

Mayor Jones: It says, American Legion Post Realty, Inc. What does... I'm way back on an email, a Yahoo mail.

Seth Thompson: I think the easiest thing would just be to look at the Recorder of Deeds online, Deeds, Records, which should match the Town tax records, so we know who the actual owner is and then if it isn't clear that it is the American Legion, they can provide

whatever documents to basically clarify, if indeed it is basically some other artificial entity that the American Legion is running, that's acting as the owner of the property.
Councilman Collier: And I understand what Councilman West is referring to. In some fraternities they form a corporation that actually owns the building, but it belongs to the fraternity.

Councilman West: Right, but some of your churches are the same way too.

Councilman Collier: Maybe I missed it in the letter when I read it. Let me read it again, because there's no point in tabling it for me.

Councilman Coté: If we can make sure who Post Realty is and it very well may be the members, or the American Legion, shortened to Post Realty, but we should just confirm it; especially since we have...

Councilman Collier: It's right here.

Councilman Coté: Citizens in Town with that last name.

Councilman Collier: And that didn't even cross my mind.

Councilman West: Mine neither.

Councilman Collier: It's right here in this email that's referenced, now that I looked at it more closely. American Legion Post Realty, Incorporated that holds the address of 105 Bay Avenue and it says Military and Veteran's Organizations, so they're one and the same.

Councilman West: Because a lot of these organizations, it's like this, I always knew it as American Legion Post and they have a number with them.

Councilman Collier: I'd like to withdraw the motion to table.

Councilman West: I'll second that.

Councilman Collier: Now that I've looked at this more closely and I would like to go ahead and make a motion that we grant them tax exempt status.

Councilwoman Parker-Selby: Second.

Mayor Jones: We have a motion and a second. Any other discussion? All those in favor say aye. Opposed. Motion carried.

f. Proposed Amendment to Fee Schedules to Include Escrow Funds

Mayor Jones: We have some correspondence here from Mrs. Rogers. Basically we're looking at a couple of possibilities. She's offered us a couple of tables here to be considered. Why don't you tell us, or tell the Council or anyone left here in the audience tonight, what this is about.

Kristy Rogers: Currently there is a need for Escrow Funds, either by way of collecting them ahead of time with an application or increasing an application fee. One issue, for lack of a better term that we have, for Accounts Receivable are Professional Fees that the Town pays on behalf of an applicant. For instance, legal fees, engineering fees, technical services that are eligible to be billed back to an applicant, the Town first pays those bills and then we invoice the applicant and sometimes it's 30, 60, 90 days before the Town is repaid for those services. Currently, I provided Council with an Accounts Receivable list and there is a substantial dollar amount that is past due regarding these services. Going back to 2009 a prior presentation to Mayor and Council was thoroughly done to increase application fees across the board with what a normal process would be for an attorney, for an engineer and technical services for several applications and I asked Mr. Davis to help explain some of these. No matter which way we go, I would ask

Council to strongly consider one of these options, because of the current issue with Accounts Receivable; whether asking for Escrow Funds in a flat dollar amount, up front or increasing the applications.

Mayor Jones: I have a question in reference to the paperwork provided. Are the tables in the back current for pricing?

Robin Davis: No, they all came from the presentation that was done in 2009. As you'll see in there too, at the time we were using the theater for meeting halls, the theater charged \$150 fee, so some of them will probably have to be tweaked a little bit, but the hours should basically be the same. What we did was we took a normal application and said okay, these are roughly the time it would take. The tables also have a base fee in an escrow account. There were questions from Council at that time. The base fee was basically staff fee. Should staff fee be charged in that application or should staff using their normal pay, pay for... My thoughts were to keep the base fee in there, because these applications are over and above something a normal job is. Yes, something as a Project Coordinator my job is to run through site plan sub-divisions, but the applications call for this action.

Mayor Jones: My follow-up question to that is, were the figures in the table in the back used for Table B, which is where you get the composite of...? For example, third down on Table B is Application for Board of Adjustment, \$1,235. That combines the fee, plus the escrow need, but when that same Application for Variance, which computes to me Board of Adjustment, on Table A, it's \$1,400.

Robin Davis: On the first Applications for Board of Adjustment would be for a variance, the other was Conditional Use.

Mayor Jones: Application for a Variance, item 6 down on Table A is \$1,400. The fee, plus the escrow value. It is higher than the Application for Board of Adjustment on Table B. That's just me matching up Board of Adjustment equals variance. I understand that Table B is your having gone through those things which can face the town when it comes to development. I'm up in the front, Robin, Table A... Yes, I'm in the first two pages.

Councilman Coté: That's A.

Mayor Jones: The Application for a Variance on Proposed Table A is \$1,400. The Application for the Board of Adjustment who hears a variance, this is me putting them together, on Table B is \$1,235, so that's why I asked if these figures, these older figures were used to compile Table B and maybe they just weren't as high as Table A's figures, for estimation.

Robin Davis: I'm not sure. If you'll look back at the other Fee Schedule that has February 4, 2009, it's back further, closer to the actual individual itemized list.

Councilman Coté: Four or five pages behind Schedule A.

Robin Davis: That Fee Schedule was presented along with the items in the individual breakdowns, so Board of Adjustment Variance of \$1,231, if you look at the breakdown, the total was \$1,230.50, so those two match. Now, I don't know the Fee Schedule that Kristy did...

Mayor Jones: On Table A?

Robin Davis: Table A.

Mayor Jones: Okay.

Robin Davis: Which would be Table B of \$1,235. But you also did the proposed Table B

too.

Councilman Coté: Either/or.

Robin Davis: And that didn't match what was presented in 2009. It was just an error.

Mayor Jones: By \$4.

Robin Davis: By \$4, yes.

Mayor Jones: At any rate, the issue of this method has proven very valuable to other municipalities around us. It requires the developer to indeed load an escrow account, that's drawn upon for a variety of engineering and review purposes and instead of our carrying it on our books, with the constant need to review and rebuild, this is simply taken out of a pot. Is this something that you'll be speaking to our auditor's about, as how this will work with us when they're due to see us?

Kristy Rogers: I can speak with them about escrow funds. I think it's just an internal policy that we can adopt, either by increasing the Fee Schedule or requesting escrow funds ahead of time.

Mayor Jones: And I see here that you've stated the willingness that they be notified on an ongoing, I think you say, monthly basis here. It's basically like having a bank balance and then they'll be notified what's been applied to their account. I think this is a very good idea.

Robin Davis: Madame Mayor, it's exactly like we would be doing now. We bill monthly now, so they do get an invoice every month anyway, so with doing this, one of the two options, they would just get a statement saying their starting balance was this and we've taken X amount of dollars. While you were in Executive Session, Mr. Ben Gordy from Atlantic Management was in the back and I was talking to him about the item and he thought it was a good idea. From their end, because Fernmoor Homes a lot of times ask him to budget prior to a phase, to have an idea what it's going to cost through the process. If we use this, it's going to help their company out too.

Mayor Jones: Sure. I definitely think it's something that Milton needs to enact.

Councilman Coté: I think definitely we should... I would favor the escrow fee, plus the escrow plan, as opposed to just bumping up the... collecting a larger fee amount in the beginning and trying to collect more as we go along, if we use up the initial amount. I guess one of the questions I had about the Schedule A vs. Schedule B, is Schedule A has six of these with the escrow account and Schedule B has fourteen items with applications.

Kristy Rogers: Schedule A is our current Fee Schedule, so the applications listed are the current applications on our Fee Schedule.

Councilman Coté: And the other is from the 2009 version?

Kristy Rogers: Yes.

Councilman Coté: Okay, thank you.

Robin Davis: Also, one of the items that are on the B and the one that was done in 2009, Historic Preservation Review. At the 2009 presentation, one of the council members was really concerned about charging for Historic Preservation Reviews. Her concern was that maybe the homeowner's in the Historic District wouldn't want to pay that extra fee of fix up their homes, so adding a cost to a review might deter owners from doing repairs to their homes. Currently, because we do not charge anything for Historic Preservation Review, at this time.

Councilman Collier: How extensive do they get?

Robin Davis: Normally a review is not done by an engineer and usually the Solicitor is not even there, unless it's a demolition. The standard meeting for an application for Historic Preservation is usually about 10 or 15 minutes.

Councilman Collier: Okay, well I...

Robin Davis: Usually my time is usually the most, it's what is involved in that.

Councilman Collier: I guess the point is, I guess what I wanted to ask is, are we taking a bath by not doing that, so every time you do a Historic Preservation Review, we're actually going in the hole by providing the service that's required?

Robin Davis: Everything is my time, staff time, that's basically it and now if we have a meeting at the Library, there's no meeting costs.

Councilman Collier: Okay and there is no fee for a Historic Preservation Review, no fee whatsoever?

Robin Davis: None.

Councilman Collier: Okay, I'm just curious.

Councilman Coté: One consideration on the escrow, in collecting a fee plus the escrow, I would consider collecting more escrow for each of these, because some of the past due's are substantial. Some of these we could, like sub-divisions we know are going to be more major than some of the other, than a variance.

Robin Davis: Yes, and as you note, on sub-divisions that breakdown only shows to run through the approval process. It doesn't show any cost involved with going out and physically doing inspections, having our engineer go out and do inspections. A lot of those outstanding invoices are for costs incurred doing inspections, not doing the plan review phase.

Councilman Coté: But when the escrow's used up, it has to get replenished or we don't go forward.

Robin Davis: Correct. There's going to be have to be some figure to say 10%, 20% of whatever and then we keep some sort of idea of how far along we are on the project; whether you need another \$10,000 or you're almost at the end, so maybe we only need \$3,000.

Councilman Coté: We'll take the \$10,000 and give you back what's left over.

Robin Davis: That's to be done.

Mayor Jones: I just want to make sure, you're right, a lot of those pass through fees that land in Accounts Receivable and then don't move. The Town of Milton has satisfied those invoices to that Professional Engineer, so how do you compute that to make sure you're holding money for that phase, as well? My question goes to the Town of Georgetown having enacted this and something tells me they chose a decided upon number, value, for start-up projects, based on how much investment is going to be in it, the length of time, what the overall project is and then that amount of money is put into escrow to pay for those engineering fees and everything else, while we're paying the bills and we're not getting the money back. So I think not just the permit fees, but you would need to build in something in anticipation of engineering fees, to this escrow account.

Robin Davis: Correct. Yes, to add when the inspections start, because of the site work. Once the site work starts, there's going to be, again, that's when a lot of your engineering costs are going to go up, because of the time it takes to have the engineer out there on site, watching.

Mayor Jones: Do you then envision that each time you anticipate more work, then the developer has to bump up his escrow account, or do you just put that right into an account from the very beginning? As the project continues along, are you advocating going back and asking for more escrow money?

Robin Davis: Yes, I would say we would have to keep that money replenished.

Mayor Jones: I would too, but I would say you load it in the front.

Councilman Collier: Okay, well, I think the escrow account is something that's done at the preliminary stages, what you're talking about, so this is all the stuff before the project actually comes to fruition and any dirt's turned, or anything else.

Robin Davis: Correct.

Councilman Collier: And what I have seen in my experiences that first of all, what I know is a hot one around here is the performance bond. Second thing, and you can do this, rather than put it in the form of a fixed fee, you do it based on the cost of the infrastructure and you enact within your sub-division ordinance or whatever, an inspection fee that amounts to a percentage of the estimated cost of the infrastructure; and you'd have to decide what that percentage is and if you enact it as an ordinance, then you don't have to set a fixed amount on it. You could even go to the point, where I've seen some structured where every two years they re-up so to speak, so if they start out having a \$1 million worth of infrastructure and they pay 10%; two years later if they have \$750,000 worth of infrastructure left, they pay 10% again, of that, as an inspection fee, so that way you perpetuate your money and you put a timeframe on it, so it behooves them to get the work done early, because if you're going to put out that 10% of a \$1 million and two years later you're going to have to put out more, you better build all the infrastructure you can the first time, because you're going to re-up your fee whether it justifies it or not. So there is a purpose behind doing that. So I think that we're on the right track looking at this from the preliminary end, because it's hard to determine what a project is going to cost you to get it to the point that you build it, but once you've determined that you're going to build it, you know, you have a very firm idea of the cost and a handle on it and the time to apply that fee would be then and I would rather see it put in the form of an ordinance at a percentage, because then you have to readjust it periodically and you say, hey, it's going to cost you \$1 million to do the infrastructure, we want X percent on the front end, before you turn the first teaspoon of dirt and you have all that money there.

Robin Davis: Yes, because they'll have to come up with that figure for the performance bond.

Councilman Collier: It's almost like a bond.

Robin Davis: Yes.

Councilman Collier: It works the same way as the bond.

Robin Davis: That figure is already out there, because the cost of 125% is for the bond.

Councilman Collier: Yes, so you already know what it's going to be, so if you want 125% for the performance bond, and then you want an additional 10% as an inspection fee, you've covered your performance bond, you've covered all the inspection fees and it enables you to have the money on hand so that you don't pick and choose when you send the inspector out there; you have somebody on staff; you have somebody, not necessarily on the staff, but somebody contracted and you have quality assurance at all times; then you don't end up with this thing three years into the project or the other issue

that was brought up in the Fernmoor Homes letter about something that we didn't proof roll correctly. It's all taken care of on a day-to-day basis. The way I look at it, by instituting something like that, you're only protecting yourself and if we're going to allow them to build streets for us to take over at some point in time, I'd like to know that it was built right, sub-grade, right on up to the finished product. I don't just want something that looks pretty when I say yes we'll take it on and then find out two years later that it was crap underneath, because you know the roads only as good as the base it's built on. So I think we're on the right track with this. I'm not trying to draw out this discussion. I just don't know that we want to... I agree with the idea that you have to get to a certain threshold of the amount of fee that you have in and then you're going to ask them to, more or less, it's just like reloading a phone card or something and you're going to have to ask for that. You need to express that in this or you write that that this is subject to being re-upped as needed, because you're going to get a lot of push back on some of this stuff, if you tell them you want \$10,000 and then you put in a sub-division that only takes \$1,500 worth of fees. Most of these guys that are developing now, are doing it at very tight budgets to begin with.

Mayor Jones: I happen to agree. I think there's going to be a... You may be a little bit too close to square one, when it requires us each time to reevaluate and try to get more money, then it's going to be as series of correspondence back and forth, they'll send it to you when they get it and in the meantime, the project will be held up because Milton won't incur the cost straight up front.

Councilman Collier: But time is money, so you either put it up or your project lays in the water, unless these have an investment and if they let that wallow... I'm just looking at it from the aspect of having to watch sub-divisions be built.

Mayor Jones: Are we sending this back with a recommendation? Is this really something we want to turn into an Ordinance or keep an escrow fee on a Fee Schedule, at a percentage? Is there a place for that?

Councilman Collier: Well the difficult part is determining the percentage, because everything is different. A sub-division of five homes might only take \$500; a sub-division of 500 homes might amount to ten times that, a hundred times that, whatever it might be. So it's a little difficult to tack it... Do you do it as a percentage of X per home? I'm not quite sure how you approach it, because nobody knows what it's going to cost to put this project out until you get past the preliminary stage. Up to that point, they only have ideas. They have to sell the idea, they have to get the zoning, all these other steps. I've seen our zoning boards take sub-divisions that started out pretty much on the cheesy and cheap end and by the time it was done, they turned it into much better and a lot more of an expensive project. It's all on the developer. We always knew with that one thing that nobody wants to think about, but anything that anybody would bring to us now in the form of a sub-division on unannexed land, if they don't like what Milton wants them to do, they just go see the County. The County standards are lower than Milton's.

Mayor Jones: Okay, but in reference to this escrow idea, do we have any other comments from other members of Council and what is Council's direction for doing this. I do think it's a very good idea. I think we need to institute it.

Councilman Coté: I would say we should go ahead with the escrow idea and maybe for the next meeting, come up with a more detailed plan of how we're going to assess the

projects, in terms of what the initial deposit's going to be and what the process is to replenish the escrow account if it's used up.

Mayor Jones: Mrs. Rogers, would you or Robin, if you need the assistance, the one that comes closest to mine is Georgetown right now. If you could find out how they base their escrow accounts, on what criteria they do that, that would be very helpful. Do you have any suggestions?

Seth Thompson: It sounds to me like the applications where that's going to come into play most often, would be the applications for the sub-division where you could have just a partition, where you're dividing a property into two lots. You could have a minor sub-division or a major sub-division, so when it comes to the sub-division, that process seems to lend itself to a wide range of needed professional services for the review. In terms of your application for sub-division, you do a \$25 per lot fee. I suppose you could do something akin to that, where the escrow is based on the number of lots, just a thought on that where for instance if you maybe even use your definitions for a minor sub-division or a major sub-division; the only problem there is I think it's a pretty low threshold to end up as a major sub-division and then... Robin do you know offhand what it is? Is it ten lots?

Robin Davis: Partitioning is two lots, minor sub-division is three or more with no need for new roads or infrastructure, major is anything where three or more and needs for infrastructure and new road expansion.

Seth Thompson: So it could be that they can get broken down along those lines and then when you get to the major sub-division, the escrow is \$1,000 per twenty lots, or per ten lots, something like that; that might work. The other area where I suppose there's going to be some broad range of costs, would be your site plans, because I think some site plans are relatively simple and then others are much more complicated. I don't know if you want to do that by the acreage.

Robin Davis: Again, some of these too, going between the preliminary and final, there's construction drawings that the engineer reviews, you have the current with Heritage Creek, I'll use them as an example, their engineer's pretty familiar with our Codes by now, so there's not a lot of back and forth on the construction drawings. Normally when the preliminary construction drawings go to the engineer, there might be several comments sent back to the applicant, corrected, brought back, ready to go to final. You might have an engineer that's not too familiar with our Codes or some of the things that are required in the construction drawings. The plans might have to go back and forth two or three times. That's where the additional costs would come in. Again, if the initial plans come in per our Code, less review is required. If some of them come in and say I just want this, what do you think? It's going to take a little bit more time, so that's the variable there. Even if it's 100 lots, you might have two sub-divisions side by side in 100 lots and one of them might be \$10,000 more because of engineer A and engineer B and how they submit their application. The presentation was done off of just a standard, normal, if everything flowed the way it was supposed to be application. Again, the notes at the bottom are there could be additional costs by extra meetings, extra reviews. Again, I don't know if we could take enough to ensure that the preliminary review is covered and then we would have an idea once we took the first draw down how much money we had left and maybe that engineer could help us out, saying okay I think we're here and maybe I'll have two reviews on this or one review. That could be replenished at the time.

It's going to be a... It's not a fine number. It's going to be... I don't want to say a shot in the dark either, but those numbers are pretty close.

Councilman Collier: Well the beauty of it being on the Fee Schedule is, that's the one thing that we, as a Council, can adjust at any given time without having to go through a whole lot of meetings and hearings and so on and so forth. The Fee Schedule we can vote this month to raise it and vote next month to raise it again if need be and I think it's going to be a learning process until we hit a good average, but you're never going to come up with a perfect figure or a perfect percentile evaluation and say okay, this project is going to cost X, because we don't know what it's going to cost.

Seth Thompson: Right.

Councilman Coté: It may not be perfect in every situation, but it will be better than where we are now.

Councilman Collier: Well if we get beat out of \$100, it's better than getting beat out of \$2,500. Right? I'm just using those two items.

Mayor Jones: I think Council can agree it is a good idea. It would be nice to enact it in the Town of Milton. We do have a sister city right over in Georgetown who's using it and is very happy with it. If you'll get us just a little bit more information about a town that already has it working, we'll go from there.

- g. Ordinance to incorporate a new Chapter 91 into the Town Code relating to vacant buildings (First reading)

Mayor Jones: I can say for myself this is an enormous amount of information for a new ordinance.

Seth Thompson: Well I guess the key points are that it's limited to the town center, because your Charter, I gather was amended fairly recently to allow for this as a tax, so again it is limited to the town center. It's for all vacant buildings. Basically what I did was I set up a definition section and then really the main conditions are that it's been vacant for more than a half a year and that it's not being actively renovated, or not actively listed for sale, that type of thing. But I'm more than willing to answer any sort of questions. The one thing I didn't do, I didn't put any amounts in terms of what the Council thought would be appropriate for a tax. Obviously the goal is to encourage people not to have vacant property there and also so the Town gets some money, just because vacant properties tend to require more services in terms of policing and that sort of thing. I really need to defer to Council in terms of what they feel is an appropriate number and I gather the Economic Development Committee, because I think they were the ones that initially requested this, in terms of what seems like a fair number for businesses, where it's not being overly harsh, at the same time it's accomplishing it's purpose of not having a vacant property sit out there forever, without it being listed for sale or being renovated.

Councilman Collier: How does this apply to a mixed use property. We have those in the downtown where the commercial entity on the first floor has been vacant for quite some time, but the apartment on the second floor has been occupied the entire time of the vacancy, so how could this apply in that case?

Seth Thompson: The building is defined as any structure which is wholly or partially enclosed within exterior walls as permanently affixed to land and has one or more floors and a roof.

Councilman Collier: That's how it's defined as long as one... So if the apartment upstairs is lived in and the commercial property, which is what I think our Economic Development people are using as their lightning rod as to where this should be aimed, this really doesn't impact that at all.

Seth Thompson: Well it doesn't apply to dwellings, at all, either, so if it's the apartment that's empty, the apartment can remain empty.

Councilman Collier: I understand that, but we have the opposite case here; when I think about what we have downtown, we have a couple of store fronts up on Federal Street that have been empty for years and okay well they come around every once in a while they will stick the sign back up in the window after it fell down that it's for rent with a number on it, but I think that the push for this from Economic Development people; that was some of the targeted buildings. I can only think of one building that's sat kind of empty and not anything going on for years and while something has been going on, they emptied all the stuff out of it recently...

Vice Mayor Booros: Councilman Collier, the one thing I noticed about it, is when it starts with the purpose of the chapter, the first thing it's talking about is protecting the public health, safety and welfare, vacant buildings that are in disrepair and about to fall down and aren't being maintained. For this just to apply for the Town Center when we have structures on Mulberry Street that are about to cave in, that are outside of the Town Center, do we not care about the public safety, health, welfare and everything else outside of the Town Center or do we just care about it in the Town Center?

Councilman Collier: Well, I think that probably falls under the nuisance category.

Seth Thompson: Right, well the nuisance is something that would need to be corrected, but this is a tax on vacant buildings.

Vice Mayor Booros: So is it really about the health, welfare, safety about the buildings, or is it about the fact that it's vacant and it's destroying the economic character of the town?

Seth Thompson: Well I would think it would be both. Again, I think when you have a vacant property it's kind of an attractive nuisance typically.

Vice Mayor Booros: We have them on Mulberry Street also. That's the part I don't understand. Is it a nuisance on Mulberry Street, but it's not a nuisance downtown? Is it a public safety issue downtown, but it's not a public safety issue out on Mulberry Street? Why is this just pertaining to the downtown?

Seth Thompson: Because that's the way the State Legislature passed your Charter Amendment.

Vice Mayor Booros: So this is Code or Charter?

Seth Thompson: The Charter gives you the ability to implement this tax, but the Charter and I'll quote the exact language, so again it's an enabling statute. It says that if the Town Council elects to do this, they can adopt this tax.

Vice Mayor Booros: Right, but we can also elect to do it anywhere else too, can't we?

Seth Thompson: See I think the argument is... let me find the exact language, but if they gave you the ability to tax just in the Town Center for vacant buildings, the inclusion of one is going to be the exclusion of the others, so in other words when they say you can tax that, that means you can't tax the other ones. So that's the difficulty.

Vice Mayor Booros: I understand what you're saying.

Councilman Coté: And we refer to these amounts that we want to charge as fees in this

Ordinance, so should they be part of the Fee Schedule vs in this ordinance?

Vice Mayor Booros: Is it a tax or is it a fee?

Seth Thompson: It's really a tax in the sense that you're not giving them permission to leave the property vacant; so we can change the word "fee" to "tax", because that is more of an accurate description. Again it's not a fee where they walk in and say I'd like to leave this building vacant for the next ten years. It's in Section 26 of your Charter. It says that "The Town Council may levy taxes on vacant, commercial structures"; which again, is why I didn't include "residences in the Town Center of Milton, not currently listed for rent or for sale and not undergoing alteration to their buildings, after a period of six months of such vacancy." So that's why it was limited to commercial structures and the Town Center. I gather that's what the Town asked the State Legislature to pass and so that's what they did.

Councilman Collier: I think generally that was what the original push was, was for it to be concentrated in Town Center as I remember, but again, like I say, the only thing I see is when you have a mixed use building that one floor is commercial and the second is residential, where does that fall, if the commercial entity is unoccupied but the residential... it says building, right?

Seth Thompson: Right.

Councilman Collier: So you could rent the apartment forever and never do anything with the commercial aspect and be free of this.

Seth Thompson: Right and I can define that if it's the Council's intention to have it be the unit, so to speak; defining building or I guess I would probably end up using structure.

Councilman Collier: Unit would make it apply in the instance of that particular example that I gave, as well as using the word building; you could rent a broom closet to somebody in the building and it would be the same way. I think unit would define that a little better, if we were actually going to get serious about this, because as I see this and I visualize the downtown, we have one building that probably qualifies in the Town Center, maybe two, that would be impacted by this Ordinance and there's probably the expectation I think was that it would be far broader than what this is at this point.

Mayor Jones: So we're sticking to commercial just in the Town Center, because with Conditional Use, we have commercial property dotted now through residential areas that may be left vacant for who knows how long?

Councilman Collier: If they've got a For Sale sign or a For Rent sign in front of them, they're actively seeking to do something. That's the bail out, so to speak; because if they don't do anything then you really have them. The day the realtor sign comes out of the window, two days later if there hadn't been one go back up, you've got them, was the way I look at it, although I think there's a six-month period in here.

Mayor Jones: So you're resolving an issue by someone running out and getting a \$3 for rent sign and sticking in their window and they think you're on to them?

Vice Mayor Booros: That's what they're doing.

Councilman Collier: Well that's exactly what this enables. I mean, it's not without its pitfalls and limitations.

Councilman West: Then the people can say, I've got the For Rent sign in there and then people say well I want to rent your building. It's not For Rent.

Vice Mayor Booros: No, they just make the rent high enough that nobody wants to rent the building; that's what has been happening.

Councilman West: Yes.

Councilman Collier: That's what happens. I mean this thing is not without its flaws and I don't know that you're ever going to adequately fix that; it just puts them on notice that you're watching them all the time and waiting for them not to do the right thing.

Mayor Jones: At the time of the recommendation the Economic Development Committee sent in some Ordinances from other areas. Do you recall those? Do you recall the Towns they were sent from and is it something that we need to replicate and see what others are doing locally? Does Lewes have one of these?

Seth Thompson: One was from New Castle; not the County, but the Town.

Mayor Jones: One was from Virginia, too, or something; wasn't it? They were from all over the place.

Councilman Collier: The City of Dover has one and they have revamped it several times since they instituted it and actually have weakened it because of the issues like a mixed use building; which was one of the most recent ones that they had to go back and readdress this thing, because the storefront was not being used... what was most visible to everybody passing by, was not being used and it wasn't actively getting anything done with it, but the upstairs where they had an apartment... wait a minute, that was no unoccupied, so that's why I mentioned if you want to identify, you have to identify like commercial unit or something like that, so then when you have it mixed use, you can focus on one portion of it. I don't think it's going to fill storefronts, if that's what they thought the intent of this was. I just think it may stop buildings from deteriorating from lack of use, but I don't think it's going to fill the storefronts unless they honestly want to fill them. We don't have to act on this tonight. I think we made some recommendations and it may need some tweaking.

Seth Thompson: Okay, so just that I'm clear, I'm going to really change the word "fee" to a "tax". I have a feeling I think it was New Castle, the City of New Castle, because they used the term fee; I gather because they don't have the taxing authority in their Charter. I'm just guessing on that, but that isn't a very common provision that you see in everybody's Charter.

Vice Mayor Booros: So what you're saying Mr. Thompson is we could have the same thing with a fee applied to vacant buildings outside of the downtown center, because it's not in our Charter.

Seth Thompson: It's interesting, because...

Vice Mayor Booros: That's what you just said New Castle's doing.

Seth Thompson: Right. It's interesting though, because I think the Town, by asking the Legislature and I'm assuming that they did this, it must have been after 1987, because they referenced Town Center as a Zoning District. On some of them, they have kind of have weakened their own case for adopting a fee because they felt the need to...

Vice Mayor Booros: Call it a tax.

Seth Thompson: That's exactly right. I will also clear up building. I'll come up with a better definition of unit, so that it's clear that it would apply to a vacant storefront, even if there's another unit about it that's commercial or residential.

Vice Mayor Booros: It is one building with three storefronts in it and three apartments above, but it is one building; being sold as one building.

Councilman Collier: So if you identify building, you should really hit them three times.

Vice Mayor Booros: You've got it. Vacant units.

Councilman Collier: Okay, thank you Mr. Thompson.

- h. Ordinance to amend Chapter 220 of the Town Code, Entitled “Zoning”, relating to amendments to the zoning code (first reading)

Seth Thompson: This was, I'm trying to think if it was last month or the month before, the requested clarification or edits to the Town Code that we can... basically what this does is it clarifies that the Council has the option of referring something to Planning and Zoning; so instead of “shall” it becomes “may” and then I had to add in the if referred language to begin the deadline for Planning and Zoning filing it's written report.

Mayor Jones: I have a question for Mr. Davis, but first it's not intended to be rambling, but I did vote originally to make this change. I have been concerned, however, from hearing from members of the Board and of the public; Mr. Thompson, in any way is the process as it is right now truly a checks and balance to keep government, meaning the Mayor and Council from doing whatever they want, whenever they want, because if that is an aspect of this change, that concerns me on a grander scale? Robin, to you my question would be, specifically, the Ordinance as it reads now, Special Permitted Use vs. Permitted Use, which is what we're talking about in one particular parcel in this town right now. Can you describe real briefly the different scenarios that the applicant must go through when it is a Special Permitted Use or a Permitted Use?

Robin Davis: Special Permitted Use's are required to go to Planning and Zoning for approval. That requires a Public Hearing, normally during their preliminary site plan review, which is a part of the Special Permitted Use process. They're required to send out certified letters, notification in the newspaper. The Special Permitted Use application site plan review is \$100 application fee. It's still only about \$100 for the newspaper notification, \$6.50 for each certified letter that needs to go out. Then they would have a final site plan review for that and that's per our Fee Schedule, it's \$100 for every site plan review you do. Then the engineer will get involved and do a review, if need be. It's not going to be as big a scale as a brand new project, because most of them, if you're using the Town Center as an example are already built out, so there's not going to be any renovations done to the exterior or additions put on. Unless you have something like Irish Eyes, they have that back dining area; so there had to be some engineering review on that; so there was going to be additional costs. But if there's nothing done, or there's really not a review in detail done, because you're not doing anything to the exterior in Town Center; there's no parking requirement, so there's no need to review any parking. The majority of your buildings already have lighting and things like that. A Permitted Use, if it meets the requirement of nothing being renovated, the review is done by me. That's all the review that needs to be done. If it meets the qualifications with the no parking and all the other things, it can be approved through the Town Hall.

Mayor Jones: In the case of a Special Permitted Use, is there an average turnaround time from when that applicant first comes in and talks to you, goes forward through that Planning and Zoning process?

Robin Davis: It could be, according to what needs to be done, it could be four months. A lot of them have to go through DelDOT. If it's Town Center, they don't have to do it through DelDOT, because there's no parking requirement, no entrance requirement, Fire Marshall; so if they're going to have to go through a review process to do that anyway, so a lot of them, once the preliminary gets taken care of, they'll do the Fire Marshall

because we can't give them final, without the Fire Marshall review. Again, if there's no changes to the site, there's no Sussex Conservation District, because there's no storm management issues; everything is basically the same.

Vice Mayor Booros: Do they have to pay an engineer to do a site plan? You have to be reviewing something.

Robin Davis: There has to be some sort of drawings done and again, if it's not any changes, we don't require a lot of the things if you're adding something on. If you're adding an addition on.

Vice Mayor Booros: Were you around when Irish Eyes applied for theirs and they had to go for the review?

Robin Davis: No, I wasn't here then.

Vice Mayor Booros: Vintage Cafe?

Robin Davis: Yes.

Vice Mayor Booros: Do you know how long those took?

Robin Davis: Actually Richard Reed did the whole site, the site was done through his... his site plan was basically approved, so Vintage Cafe was a little bit sure, because the building had already been approved with Mr. Reed...

Vice Mayor Booros: But their business hadn't been approved, so that's not a Permitted Use.

Robin Davis: Correct, but the site review, Mr. Reed had already paid to have plans drawn up when he was closing in the bay doors, putting the fronts for the stores, so the site plan review was done by Mr. Reed, so anything that went in there, as long as there were no additional changes to the building, they just took the plans.

Vice Mayor Booros: All they were asking for, was just to approve the use of putting a restaurant there?

Robin Davis: Basically, yes.

Vice Mayor Booros: So when it went to Board of Adjustment, what did they have to prove to Board of Adjustment that it was okay to put a restaurant there; since the site plan had already been approved, the business was...

Mayor Jones: Planning and Zoning.

Robin Davis: Don't know.

Mayor Jones: Planning and Zoning, right?

Vice Mayor Booros: Well.

Robin Davis: They had to go to Planning and Zoning, for Special Permitted Use.

Vice Mayor Booros: I'm sorry, Planning and Zoning.

Robin Davis: Yes, for the use of to put a restaurant in there.

Vice Mayor Booros: So they went to Planning and Zoning to put a restaurant in there and what did they have to tell Planning and Zoning about putting a restaurant in there, since a site plan review had already been done?

Robin Davis: Correct, there was really nothing more. Planning and Zoning wanted to know where the dumpsters were going, no design changes, so there was really not much... hours that the restaurant was supposed to be opened, things like that, questions like that, but overall since the site plan of the building and the layout was already approved previously, there was no need to have Vintage Cafe resubmit new drawings; they basically used the drawings that Mr. Reed had used.

Vice Mayor Booros: Mayor Jones gave me an example the other day about well what if

they want to put in an exhaust fan coming out of the building for I guess the oven or the stove exhaust and it dawned on me after the conversation, that they still have to go through Historic Preservation, if they make any changes to the outside of that building, including an exhaust fan coming out of the side of the building or the back of the building or the top of the building.

Robin Davis: It talks about any changes to the character or the look of the building, yes.

Vice Mayor Booros: That could be visible.

Robin Davis: Yes.

Vice Mayor Booros: So they're already going to have to go through Historic Preservation for a sign or any changes to the outside of the building?

Robin Davis: Yes, signs, they'll definitely have to go, yes. That is correct.

Vice Mayor Booros: Fans, exhaust fans, exhaust things that would show on the outside of the building? They better have to.

Robin Davis: Any change and I can look at exactly what the wording talks about. It talks about the change to the exterior facade or character of the building; so anything that they do to the front of that, or something that's going to be...

Vice Mayor Booros: Visible from the street.

Robin Davis: From the street. Yes. So they also get the side and the rear, is basically the same thing.

Mayor Jones: So it was explained to me that Special Permitted Uses, such as reviewing a restaurant, which is still in our Town Center under Special Permitted Uses; are you telling me Planning and Zoning doesn't have the authority over where the dumpsters are placed or where the exhaust fans are located when they do that review?

Robin Davis: The dumpsters, yes. The areas of the dumpsters. The screening for the dumpsters. If the owner of the restaurant says my kitchen has to be here so I have to vent out here, Planning and Zoning is not in the business, or any committee of saying, no you have to put your kitchen over here; so we'll have to vent it over there. So the design of the building, of that portion, is basically left up to the owner of the building to say my kitchen is going to have to be in the rear, or my kitchen is going to be on the left side, so this is where I'm venting. I would say most of them, instead of going out the side, could potentially go out the roof of the building and you would never see it.

Mayor Jones: But I'm just looking for the Board that governs that.

Robin Davis: Anything in the Historic District that changes the look or the exterior appearance.

Seth Thompson: I'm looking at the section that would affect the exterior appearance of a structure visible or intended to be visible from an adjacent public way.

Mayor Jones: Is Historic Preservation?

Seth Thompson: Correct.

Mayor Jones: And Historic Preservation would apply in our Town Center for this particular review how things are viewed from the streets, the facades in the Historic District.

Robin Davis: Correct for any building, yes.

Mayor Jones: Then how would the amendment to this Zoning Code affect those things that were not in the Historic District and therefore would not necessarily be governed by the extra layer of the Historic Preservation? If, for example, this right here is that the Council may, instead of shall, refer to Planning and Zoning. If you took this concept out

of the town center, the decision will still rest on the Council that they may or may not choose to refer something to Planning and Zoning.

Seth Thompson: Well I think it's important, this ordinance deals with the process for amending the Zoning Code, so it doesn't deal with the permitting process at all. This wouldn't affect the way the Code currently requires Planning and Zoning to review a Special Permitted Use application. The only thing this affects is...

Vice Mayor Booros: If we decide we want to change something within the Code, we don't have to go back to the people that look at the Code to make those changes. We can go back to them for their opinion, but as far as checks and balances, it's just an opinion. This Council can still do what it wants to do.

Seth Thompson: Right.

Vice Mayor Booros: It's a 45 day delay and then getting back to us after 45 days, at which time we have to wait 15 days until we meet again and it requires a Public Hearing and a second reading and everything else; so if we decide we need to make a change to the Code, we're tying our own hands up for 4 or 5 months, or 4 months let's say, before we can make a change to the Code. It's not about reviewing any particular application.

Seth Thompson: The one thing that the Council can't change is that you have to have a Public Hearing, because that's part of the State Code, so it's not like there would ever be a change to the Zoning Code that was written up seven days in advance and then passed that night. At a minimum, you're going to have to do the Public Hearing.

Councilman Collier: You still have to go through the steps of the process.

Seth Thompson: Right, so in terms of checks and balances, I don't know if that's necessarily... I tend to think of that as being between different branches of the government, but the way a mandatory report requirement would work, is that it extends the process. It makes sure that you have a different governing body look at it. I guess the one element of a check and balance, I suppose, is the fact that if Planning and Zoning recommends that an Ordinance not pass, or a rezoning not pass, then the Council has to approve it by a super-majority, by the four-fifths.

Vice Mayor Booros: But it's not a rezoning you're talking about, it's changing something in the Zoning Ordinance; it's not talking about a rezoning.

Seth Thompson: That's the other group this... it covers the Ordinance itself in terms of the rules and regulations within the zones, it also covers the boundaries of the zones. They consider that an amendment to your zoning ordinance, because your map is part of your ordinance, basically; so it really applies to both of those. But you don't go through the process of amending your boundaries very often; normally the more common amendment is changing a rule within the Zoning Ordinance.

Councilwoman Parker-Selby: I have a question, I guess. The last page and the statement in this prior to the Synopsis, "If the Planning and Zoning Commission recommends disapproval of the proposed amendment, or recommends modification thereof, the Town Council shall not act contrary to such disapproval or recommendation except for a four-fifths vote." Now to me, I'm reading it and I know it's late and I'm half asleep, but to me that's kind of saying that the Town Council you just don't have any say...

Vice Mayor Booros: At all.

Councilwoman Parker-Selby: At all here and I'm asking myself, now who are the governing people of the Town, the Town Council or the Planning and Zoning Commission? Which one is over the other? I'm thinking the Town Council should be

over the Planning and Zoning Commission, correct? That's how I was taught.

Seth Thompson: And it is correct. The Council's made up of people that are elected obviously, vs your Planning and Zoning that's appointed.

Councilwoman Parker-Selby: So why are we not going to be able to have the final say? To me, I'm reading it. Maybe I'm reading it wrong, but...

Seth Thompson: Councilwoman, you're correct and that's in your Code currently. That's what is in there. That's not a proposed change.

Vice Mayor Booros: So it's not a recommendation from them; they're telling us we have to do it.

Councilwoman Parker-Selby: Yes, it's like you may...

Seth Thompson: For the most part, they're telling you you can't do something, right?

Councilwoman Parker-Selby: Yes.

Seth Thompson: Or you're going to need to convince everybody basically, because to get your four-fifths you're going to need... I guess you could have like earlier tonight where we only had five people.

Vice Mayor Booros: But interestingly enough, Mr. Davis and the Councilwoman at the end of the table and I, were in a meeting today for eight hours and the entire meeting was about loosening up your Codes.

Councilwoman Parker-Selby: I brought that up earlier.

Vice Mayor Booros: The entire meeting. We are so far behind the eight ball and we can't even get through one word "shall" to "may" on a thing to give this Council the ability to loosen up something if we feel it's going to benefit the Town. We went a whole day with all the State and the Local and Federal people that were in there, that said if you want your Town to survive, you need to back off and loosen the Codes; unless it's public safety, that's the issue; you need to back off. We can't even change one word in one Code, one Ordinance, to allow us the flexibility to back off.

Mayor Jones: I don't disagree with, in theory, what we had intended to do by switching from Special Permitted Uses to Permitted Uses downtown, which would include restaurants. I don't disagree with that, in fact, when I look at the Ordinance there are several locations that I realize you can't just put these on the books and then leave them. They turn into dinosaurs. You have to go back and you have to look at them. You have to look at how your particularly in this instance, you're town center has developed what's there, what appears to be, what could be accepted use, instead of Special Permitted Use. My only concern is, as it was explained to me, will a change like this just set up the government to do what they want, when they want, without checks and balances? That's my primary concern.

Vice Mayor Booros: Madame Mayor, it appears to me what this does is it allows Planning and Zoning to do what they want, when they want, without checks and balances, because once they make the recommendation, we shall move forward and not act contrary to their recommendation.

Mayor Jones: It doesn't say that. It says if they recommend disapproval...

Vice Mayor Booros: We shall not act against that.

Mayor Jones: Or we have to do it by four-fifths vote. That's what it says. It doesn't say we can not, it says if they recommend a disapproval, or recommend modification, shall not act contrary to such disapproval or recommendation, except by a four-fifths vote.

Vice Mayor Booros: I watched them approve something where addresses in the back

alley in Heritage Creek and couldn't believe that they were approving that and it wasn't coming back to this Council and I watched them do that, and one other thing, two months in a row that I just couldn't believe that they had the authority to act on that without bringing it back to this Council. This stuff needs revamped and I think this is a good place to start.

Mayor Jones: I agree, but changing this particular piece of that ordinance, doesn't address the issues you just brought up.

Vice Mayor Booros: I said, this is a good place to start; not giving them that much authority and taking it completely away from the Council. You don't have a problem... Nobody had a problem when they made that decision and didn't bring it to Council. They have final sub-division approval and they made the decision and they made a bad decision...

Seth Thompson: Sub-divisions come back to Council, but it's the site plans...

Vice Mayor Booros: Whatever the one was, Mr. Thompson, that you sat in the room when they approved the alleyway, the thirteen houses with the addresses in the alleyway. You were in the room too.

Seth Thompson: Right.

Vice Mayor Booros: After all that has gone on in this room for the last two years, over Cannery Village, that those people could have approved that, was just insane.

Seth Thompson: But I think the point on that particular application was that's how the Master Plan that was approved by Council reflects, so if they had approved something other than that, it would have been out of compliance with the Master Plan.

Vice Mayor Booros: Kind of like the propane field.

Councilman Collier: I'd like to see this go to a second reading.

Councilwoman Parker-Selby: I second that.

Seth Thompson: And you'll have to schedule...

Councilwoman Parker-Selby: Oh, we've got to have another meeting. Oh boy.

Seth Thompson: You'll have to have a Public Hearing on it, because it's affecting...

Councilman Collier: I understand.

Seth Thompson: Right. Right. I guess the other question then is are you referring it to Planning and Zoning?

Councilman Collier: Do we need to?

Vice Mayor Booros: That's what this Ordinance says.

Councilman Collier: I understand that and that's my point, do I need to?

Vice Mayor Booros: The funny part of it was, Councilman, I got two phone calls today from people who said the exact same words. The exact same words, that the Mayor spoke with me last night about on this Ordinance; there's somebody in this Town that's calling people and they're all saying the same words. I mean, the same words. They're not even changing the words.

Councilman Collier: Welcome to Milton.

Vice Mayor Booros: Welcome to Milton.

Councilman Collier: Now, in all honesty, I know what triggered this and I know that a super-majority of this Council voted affirmatively for the action that triggered this, so I can't hold that as my accounting for this, but the only thing that I can say, if anybody really wants to say what can we do to tweak it, is fine, we may vote to do something by super-majority. It's that simple, because if you've got six or seven elected officials,

because that's what it's going to take is six or seven, if it's a majority that are in concurrence with this, then obviously we must be thinking about the right thing. It's a little different when you just let it go by a majority and it goes to four to three. We all must be of the same common thought. It's in the best interest of the Town.

Vice Mayor Booros: My thing is not having to come back for the super-majority, it's the having to have it tied up for another two months and that's why people aren't coming here and that's why people don't want to come to the Town of Milton and that's why they'll turn around and go somewhere else, because we will tie it up when the engineer's not ready and this one's not ready and that one's not ready and Planning and Zoning sits on it for another two months or makes you come back the following month and then we finally get it and it has to have a Public Hearing and then we have to have a super-majority. How much time have we taken up over something we might have been able to take care of in two meetings.

Councilman Collier: I understand. I understand.

Mayor Jones: I'm going to ask this as delicately as I can. Some of this appears to have come about or our feelings are based on, disappointment or questioning actions of the present Planning and Zoning.

Vice Mayor Booros: I disagree.

Mayor Jones: Okay, then that was actually meant to be formed as a question.

Vice Mayor Booros: I disagree. I think this is a long time coming. I've gone through some of these processes with other committee's and the processes need streamlining. The Economic Development Committee, Madame Mayor, you and I both sat through that over and over again, of what it takes to streamline these ordinances to get businesses in here and I think this is one small start. It doesn't say we don't have to send it to them, or that we're not going to send it to them...

Councilman Collier: It just gives us the ability to pick and choose.

Vice Mayor Booros: And it only applies to things that come from us. It doesn't apply to things that come from them. They make recommendations to us all the time. That was on my thing, but if we've got to send it back to them for their opinion, then we'll see it back here again sometime in January.

Councilman Collier: If we see it at all.

Vice Mayor Booros: You got it.

Councilman Collier: Because they don't...

Vice Mayor Booros: They have 45 days to...

Councilman Coté: When does 45 days start?

Vice Mayor Booros: Good question.

Seth Thompson: When it's referred to them.

Vice Mayor Booros: When is it referred to them, today?

Seth Thompson: If you voted to refer it to them, today.

Mayor Jones: Wait a minute. Question. Are we referring this or are we referring the Permitted Use which was the...

Vice Mayor Booros: That's done.

Mayor Jones: But that started the whole ball.

Vice Mayor Booros: That's not the point. That's not on tonight's agenda, Madame Mayor. That is done. We're referring the words "shall" to "may" back to them, so that they can tell us why we shouldn't turn the word "shall" to "may".

Councilman Coté: You weren't here at the time, but I believe we heard from a majority of Planning and Zoning during public participation about why we shouldn't.

Vice Mayor Booros: Oh, I'm sure. This is the first time they've come to a Town Council meeting, right?

Councilman Coté: No.

Vice Mayor Booros: A good number of them?

Councilman Coté: A good number of them.

Mayor Jones: Again, I don't want to see this paving the way to as somebody referred to the government as being a monarchy for being able to make their own decisions and have no checks. That's my only concern about checks and balances in government.

Seth Thompson: Right and again I think of it more along the lines of due process; that at a minimum, you're going to have to have a Public Hearing with newspaper notice. When you guys adopted, or your prior Council adopted your Zoning Ordinance, it said "we also want to have the opportunity to have Planning and Zoning provide their input", so that was their amount of due process that they felt was appropriate.

Councilman Collier: I think we heard their input, once already, or a portion of them.

Mayor Jones: Well as I made clear, the head of Planning and Zoning and I've referred that to you so that we can coordinate a meeting, wants to meet with the Council, as a whole, so we have a meeting such as that pending between us all to discuss just a matter like this. Are there any other members of Council that we haven't heard from yet, that have anything to say on this subject? There is no doubt that I have at least for three, if not now going on four years, heard from Economic Development that the process for opening a business is stifling. I would have to say that that obstacle comes in many forms, specifically, I don't know whether it is because we need to refer back to Planning and Zoning like we do, or if we have other factors also at play, but there has been a request from Economic Development Committee that this is a recognized issue as far as opening businesses in our Town, not just Town Center.

Seth Thompson: I know we've talked about the two intertwined, but again, I think it's important to realize that this is the process for amending our Zoning Code. I feel like Economic Development Committee's comments are probably more focused on the Special Permitted Use process, but I know that because of the recent application, those two things have gone hand and hand.

Councilman Coté: During the silence, I'm still trying to understand the 45 days from when referred, so whatever we refer to them tonight, the applicant then has to get materials to them 45 days ahead of their meeting.

Robin Davis: No, it's not the applicant, because it has nothing to do with the applicant. We take tonight, if it does get referred to Planning and Zoning, Planning and Zoning meets the third Tuesday, it could be put on their next meeting, because there's only a seven day notification requirement.

Seth Thompson: They would look at this Draft Ordinance.

Councilman Coté: Okay, I get it know.

Councilman Collier: So that shortens it down to 30 days before it could possibly come back to Council, if we make it go to their very next meeting, which is a couple of weeks beyond ours.

Robin Davis: I think Councilman there's something that the Council has to place a time and place for the Public Hearing.

Seth Thompson: Right and you could schedule that for next month and although the 45 days might not have run, you could still hold your Public Hearing, but you would end up... the County does this a lot, where they go ahead and they have their Public Hearing, even though they haven't received Planning and Zoning's recommendation, so you could put yourself in a position to pass the Ordinance with Planning and Zoning's recommendation next month, as long as they make that recommendation at their meeting this month.

Robin Davis: But if they don't make a recommendation then we will wait until the following month.

Seth Thompson: That's right, although the Town would have at that point satisfied the Public Hearing requirement.

Robin Davis: So it could potentially be two months. It could be January probably at their last, to be voted on, if Planning and Zoning does not vote or make a recommendation at the next meeting coming up.

Councilman Coté: If we're trying to schedule a meeting between Council and Planning and Zoning, would it behoove us to table this, talk about it then and move forward after that meeting? It seems shorter than having them go through their process separate from us.

Vice Mayor Booros: Councilman Coté, I agree with you on that, because I don't know how often we're going to actually want to make a change to the Zoning Ordinance, without referring something to them.

Councilman Coté: Okay.

Vice Mayor Booros: So I don't know that stalling this off until after we have a meeting with them, is an issue. I don't have a problem with that, at all. I don't think that the occurrence will occur very often, but I think we need to have the ability not to have to go through them if this Council doesn't feel that they need to go through them for something; because of a time restraint, or whatever the reason might be. Do I think it's going to happen very often? No, I don't.

Councilman Coté: And I agree with you.

Vice Mayor Booros: So I don't have a problem tabling this.

Councilman Coté: This essentially does not become a monarchy because we changed that, because there's seven kings that sit up here, or kings and queens.

Vice Mayor Booros: So we would vote, whether or not we were going to send it back through them or we weren't going to send it back through them.

Councilman Coté: Yes.

Vice Mayor Booros: But, yes I don't have a problem tabling it until after we meet and then let's see if it even...

Councilman Collier: I move to table until after we meet with Planning and Zoning.

Councilwoman Parker-Selby: Second the motion.

Mayor Jones: Any further discussion? All those in favor say aye. Opposed. Motion is carried. So we need to schedule a meeting between ourselves and Planning and Zoning. We have the holidays and I'll talk to you about that.

Seth Thompson: It just gets noticed as a meeting of both public bodies.

- i. Refer to Planning and Zoning – Amend Chapter 220 of the Town Code, Entitled “Zoning”, relating to Section 52 Antennas, towers, and satellite dishes in the Historic

District

Mayor Jones: I was under the impression, perhaps I am incorrect, that this was borne out of Historic Preservation. Why did I think that this was something that we needed to look for as town-wide, not just the Historic District?

Vice Mayor Booros: Historic Preservation recommended that it be town-wide.

Seth Thompson: I see. I'm sorry. I must have missed that.

Mayor Jones: Yes, I thought so. Thank you. Because I think we do have an issue here and I do know again, referring to our friends a little to the west, Georgetown, has a complete ordinance. It was shared with me. I did not have the opportunity to print it off, however, for tonight's meeting, but it does exist and it is town-wide for them, as opposed to just focusing on it in the Historic District.

Seth Thompson: I'll make that change.

Mayor Jones: What is on the table is referring it, so can we not refer it until the change is made?

Seth Thompson: You can refer it with that change. I don't think you need to hold up the process, but I'm sorry I misunderstood.

Mayor Jones: That's okay.

Councilman Collier: I move that we refer this Planning and Zoning with the appropriate changes to reflect town-wide.

Councilman West: I'll second that.

Councilwoman Parker-Selby: I have a question.

Mayor Jones: Sure, discussion, go ahead.

Councilwoman Parker-Selby: I'm not really familiar with these dishes, but I have seen them in front of people's houses, but when they put those out, isn't there something about reception and if they don't have a backyard... some people may not have a backyard, but isn't there something about the reception, as to why they have to put some of these things on the front of a place where someone lives?

Councilman Collier: It requires a certain exposure on the horizon, in order to receive the satellite signals.

Councilwoman Parker-Selby: I'm thinking, depending on how the house is located, that might be the only place they could put it on the front; if you're going to the whole town situations; not everybody has a backyard either, they might have a side yard.

Councilman Collier: And I understand that perfectly well.

Councilwoman Parker-Selby: So what are they going to do?

Councilman Collier: Dishes are not the only provider of that particular service either; we also have the cable company's in Town.

Councilwoman Parker-Selby: But some people don't like cable or they've had it and they say it's too expensive so they move to the Dish. I know a lot of people who have.

Councilman Collier: And I understand that and I think part of the intent of this was borne from the Historic Preservation Commission, is if you have homes in the Historic District now with them mounted on the front...

Councilwoman Parker-Selby: I can see the Historic District, but we're talking about the whole town, right? Isn't that what I heard?

Mayor Jones: Yes.

Councilman Collier: I think in other parts of town you run into the thing where... I don't think there are too many of them left, but once upon a time in town there were some

people with the big one, that looked like a pterodactyl bird bath, but there were some of those pterodactyl bird baths still left in front yards and stuff for some time. They have gotten to the point, where there's enough satellite coverage now that the reception issue doesn't exist as badly as it once did.

Councilwoman Parker-Selby: I'm not going against anyone. I'm not going against the Historic District. I understand that part, but anyone who decides they didn't want cable and wanted the Dish and the only place they could put it would be the front of the house, to be penalized or fined because that's how it was.

Robin Davis: There is an example of that at 409 Union Street. It's not in the Historic District and there's a satellite dish on the front post of the porch. It wasn't there. Don't know why it was installed there, but it looks to me that there are trees in the back of that property, so probably the signal wasn't strong enough. I don't know if that's the reason or if whoever installed it just said here we go.

Councilwoman Parker-Selby: The people don't know, they just want them in.

Councilman Collier: Generally the installers are getting away from climbing.

Robin Davis: Correct.

Councilman Collier: That's the big thing, because they can put them lower to the ground. Now what I have to tell you is even on the front porch you've still got something on your horizon.

Robin Davis: Yes. Yes. It's just that trees were back in the backyard and I go home that way every day and see the satellite dish right on the front porch.

Councilman Collier: I have a neighbor who has a fairly tall house and he wants his on the roof and he can't find an installer to put it on the roof, because he doesn't want it on the front of his home and it comes down to that and they say oh yeah it'll work up there, but I'm not climbing up there and putting it. We don't recommend putting them on the roof, so what he finally did was, he trimmed two branches off the walnut tree in the backyard and now it sits on top of his shed. But it's in his backyard. I can see it and it doesn't bother me, because it's in my backyard too.

Mayor Jones: Do we wish to refer this to Planning and Zoning in the Historic District only or town-wide? Remember, we do have a recommendation from the Historic Preservation that it be town-wide; so what's your pleasure on how we refer that?

Councilman Coté: Well I have a question first and this is probably more for Mr. Thompson. In the sub-division I live in, we were discussing those and somebody alluded to the fact that there are Federal rules about the fact that you basically can't restrict them; you can't restrict the Dishes. Is that... I don't know.

Seth Thompson: They might have been speaking in terms of an Homeowner's Association maybe, but when you're doing it through your zoning ordinance... I can double-check, but that would surprise me. Maybe it was more an issue of an Homeowner's Association isn't allowed to do that.

Councilman Coté: Maybe, yes. Okay.

Seth Thompson: There are certain rules under State law that the Homeowner's Association, for instance, can't restrict certain solar panels, that kind of thing. I could double-check that, but I know that it's pretty common in terms of ordinances that restrict where people could put satellite dishes.

Councilman Coté: Thank you.

Mayor Jones: So we have a motion and a second to refer this to Planning and Zoning as

a look to town-wide, that's what was on the table. Is that what you wish to stick with when we make this recommendation/referral?

Councilman Collier: Yes, I would like to and I'm going to tell you why I'd like to; just because of the points that Councilwoman Parker-Selby brought up and that is the fact that we have to have a Public Hearing anyhow, so I want to hear the push back about why we can't restrict these things. Somebody explain to me, because, believe it or not, I believe if you do this, the seller's of these things are going to be in here wanting to crow about how we're restricting their ability to do business in our town, so let's hear it, because up to this point everything that we've heard why you can't do this, why you can't do that is just because that's what we've been told. I want to hear it from the horse's mouth. As a result of a Public Hearing, we can pass it in any capacity that we want, is the way I look at it.

Seth Thompson: Right, you can make an amendment.

Councilman Collier: Exactly, so let's get a reason to amend it from town-wide first. At this point, I don't see a reason. I choose not to withdraw motion therefore.

Mayor Jones: I actually have two copies of this. Are they identical? I have one four-page document and it's just copied on both sides. So we have a motion and a second to refer to Planning and Zoning an amendment to the Town Code concerning antennas, towers and dishes town-wide. All those in favor say aye. Opposed. Motion carried.

- j. Refer to Planning and Zoning - Amend Chapter 188, Subdivision of Land, - timing process for installation of utilities

Seth Thompson: And this is one Madame Mayor that was a pretty broad item, so again I need somebody's input up front in order to draft the ordinance, so it probably makes sense to do it at the Planning and Zoning level on that, but that's the reason you don't have an ordinance in front of you; trying to review specific language.

Mayor Jones: Now is this and may I just say that this has come about in reference to, particularly as we look for the streetlights on a property that's barely occupied and yet what appears to be a public safety issue has been demonstrated or brought to our attention?

Seth Thompson: It's that and the roads, as well; without some time line in place you're just left to when the developer seems financially fit to do so.

Mayor Jones: So in referring this to Planning and Zoning what kind of lead or direction can we offer them for this, or are you going to do that?

Seth Thompson: Hopefully, I'll be able to do that. I think everybody in Town is pretty aware of the issues that we've had, so I'm hoping that they're familiar with that backdrop. If not, I'm certainly able to fill them in.

Mayor Jones: So right now there's a standard of when certain things are put in and they will look at that as opposed to when it might be more prudent to put certain utilities in?

Seth Thompson: Right. The way the process stands now, basically there isn't a time line. The only impetus for them to do anything is to stop paying on a bond and to turn things over to the Town, so they stop paying for the electric, that sort of thing.

Mayor Jones: Do I hear a motion to refer this item to Planning and Zoning?

Vice Mayor Booros: So moved.

Councilman Coté: Second.

Mayor Jones: Any more discussion? All those in favor say aye. Opposed. Motion

carried.

17. Adjournment

Mayor Jones: There's nothing else to speak about. We've been in Executive Session. Motion to adjourn?

Councilman West: I make a motion to adjourn.

Councilman Coté: Second.

Mayor Jones: All those in favor say aye. Opposed. Motion carried. Meeting adjourned at 11:15 p.m.