

**Town of Milton**  
**Town Council Meeting Minutes**  
**Milton Theatre, 110 Union Street**  
**FEBRUARY 5, 2007**

**1. OPEN FLOOR: 7:15 p.m.**

MS. ANNE YARBROUGH: Reminded everybody that the Historical Society will have the second in its series of Delaware Roots Documentary Films here Friday night. The cost is \$5, and the film is "Nothing Beats Fun". Asked, "I think that at the January Council meeting, the Council had said that they would make a decision tonight about the land lease, possible lease for the Building of the Shallop. But I don't see it on the agenda, so..." MAYOR POST: "Well, they are getting back to us, and they have not contacted us." MS.

YARBROUGH: "My understanding was you all were going to vote tonight on tonight on the lease. MAYOR POST: Well, we don't have it on the agenda. MS. YARBROUGH: "It's not in the minutes from January, what decision was made?" MAYOR POST: No. MS. YARBROUGH: "Maybe the minutes would shed some light on that. Thank you."

MS. LIBBY ZANDO (210 Chandler Street): With the elections pending, I wanted to bring up a couple of things that I thought maybe the Council would consider and possibly review that are pretty important to many of us in the audience. Nonresident voter rights, it seems highly unfair that a Milton resident, who is a non property owner and not a taxpayer, can vote and serve on council. But a part-time resident or a business property owner, yet a taxpayer, can't even vote. If you are going to pay taxes, you should be able to have some kind of a vote. I would like to see that maybe a consideration of something like a compromise that a nonresident business or owner, homeowner, could be given one vote per property. I think that is the only way that we can show some fairness and we can get some representation and we can get some of these people to stay active in our community. My second point is that I think that the new Charter should do a little more to protect our voter rights. And if a Town Council seat is vacated within 60 days of an election, the candidate with the next highest votes, is still willing to serve, should be appointed to Council. MAYOR POST: Your three minutes are up.

MR. BOB BLANEY (210 Chandler Street): I applaud the fact you are in negotiation to contract a new sewer plant to be built and serviced by a private company. However, this would be the largest public works contract in the history of Milton. Many are concerned that you are negotiating with only one contractor and how this will affect the taxpayers in the future through impact fees, service fees. And this is for current residents, as well as new residents. The Town needs a design package for competitive bids. GMB was hired by the Town to prepare a design package at earlier stages in this process. Why do we not make use of their professional experience and them prepare such a package for use at this time? There is no government entity or household in the State of Delaware that would enter into a multi-million 30- to 40-year contract without putting out multiple bids. I implore you to please consider the following. Thank you very much.

MS. KATHRYN GREIG (326 Union Street) I don't have anything to talk about tonight with the garden, so I thought I would talk about three ways people could help us. Our biggest fundraiser is the Milton Garden Tour, and we've put out this little tour book. Businesses buy ads. But you as an individual can give me a dollar. And you can go in as a Friend of Milton Garden Club. The second thing would be on President's Day, February 20th, go down to the Roadhouse Steak Joint and eat. And we get ten percent of all the money they take in from food that day. And the third way would be to buy a raffle ticket. We are selling them for \$5 each, four for \$20. And the prize is ten hours of garden cleanup or garden planting. COUNCILWOMAN BETTS: Did you say February 20th or 19th? MS. KATHRYN GREIG: 19th, sorry.

MR. JOHN COLLIER: "Mr. Brady, I posed the question as to who authored the changes to Chapter 19 of the Charter, because they differed from what was presented in the document that was used at a public hearing on

the 21<sup>st</sup> of December. MR. BRADY: I have no idea. I know I received them by e-mail. And I reviewed them, and I sent them back. MR. COLLIER: On 12/21 we had a document that had one presentation in it. And somewhere between there and 12/29, we had an entirely new presentation. I thought that anything that got changed in those was to be done by a quorum of Council, or that would be my feelings. MR. BRADY: The document that I received while I was away, I was out of town, I made some changes to it. And I forwarded something back to the Town, and that is when I'm told it was considered at the 1/17 meeting that I was not at either. MR. COLLIER: All right. Well, then I guess you are the responsible party then. Is that what you are telling me? MAYOR POST: No document was changed after the document was voted on. So please put that correct. MR. COLLIER: Excuse me, Mr. Mayor. What I meant to say was that on December 21st there was a document that was put on the Town's website that had the complete recommendations of the Ad Hoc Charter Committee as to their changes to the Charter. And there was a public hearing held on such document. At that time there were no changes made on the floor or in the public. You never even got that far into it. MAYOR POST: That's correct. MR. COLLIER: And that should be shown by minutes. Sometime between then and the 29<sup>th</sup> of December, this document evolved from one set of language to another. And all I'm trying to do is find out who authored that set of language. And Mr. Brady, I believe, has told me that it was he. MR. BRADY: I received some comments, and I made some changes and forwarded it back. MR. COLLIER: All right. Thank you.

MS. MARY HUDSON (406 Union Street): On the agenda tonight under Old Business, E, it says: New and substantial reconsideration of the votes taken November 13, 2006 and December 15, 2006 for, one, to privatize the Town's wastewater treatment system and, two, to engage in contract negotiations with Tidewater. I would ask that you consider competitive bidding. This would be an ideal opportunity to give that competitive bidding some thought to actually do it. It might be in the best interest of this town to do it through competitive bidding. Thank you very much.

MS. ZOE VETTE (120 West Shore Drive): I appreciate the opportunity to revisit my request for an agricultural well permit. I spoke with DNREC, and there doesn't seem to be an issue on their end. And at the last Council meeting, I had requested a review of this. And someone said that they would get back to me. And I would just like to know the logistics of what I need to do next or who is my point of contact in moving forward. MAYOR POST: Well, I was hoping that this was going to go over to the Town Solicitor. And I'm fearful that it may have not gotten... MR. BRADY: This is the first time I have it, so it is something -- this has come up at two other Council meetings before, and Council wants me to look into it. And right now, the way the ordinance is written, there is no private right to have the -- no right to have a private well. And anybody that is served by the town water, they can only have a well for irrigation purposes or agricultural, if you are in the town limits, served by the Town. From what I understand, you wish to have drilled on your property a private well. MS. BETTIA: No, sir. I'm requesting a well to irrigate my lawn. MR. BRADY: That is a private well for irrigation purposes, not connected to the Town system, correct? MS. BETTIA: That's my understanding, yes. MR. BRADY: That is currently not permitted under the Town ordinance. So that issue came up once before. The only time it was permitted was in a commercial setting, where the commercial developer was permitted a couple of months ago to do it for irrigation purposes. If the Council wishes me to look into it to see what would have to be changed, I would be more than happy to do so. MAYOR POST: It wasn't for the entire development. It was for open space for the developer, so the entrances and so forth. The thing is, we are in the water business we could put it on next month's docket and just vote on it and say whether we are going to permit. My understanding is you live in an area which does provide or did provide you the opportunity for an in-ground irrigation system. MS. BETTIA: That's correct. MAYOR POST: Yes. And I guess you opted not to go with the irrigation system? MS. BETTIA: No. I got the irrigation system. It's just that when I had it installed, the gentleman prepared it for an ag well. And then when he went to DNREC, it was determined that we had to go through the Town of Milton to get a letter to agree to that. So the whole purpose of getting the irrigation system

was to have it attached to an agricultural well. MR. BRADY: Yeah. But apparently, the person who did it did not realize we had the Town ordinance expanded. MS. BETTIA: I would just appreciate being able to review the ordinance and then request that we could maybe take a revisit, take a look at it. I guess the main issue that I'm having is I'm being charged sewage fees for the irrigation water, which is not going into the sewer. So if I could just have a person and then maybe get a copy of the ordinance, I would appreciate it. MAYOR POST: Just go through the Town Manager. And he'll get the information to you. MS. BETTIA: Right. Thank you.

MR. JIM WELU: (30231 East Mill Run) For people like myself, who don't eat steak and don't go to Roadhouse Steakhouse, I would suggest that people give to the garden society ten percent of what a meal would cost and just avoid steak. Secondly, I would like to make a proposal for a little bit of a difference to Mary Hudson's proposal. I don't think we should be in competitive bidding, but competitive negotiation with wastewater treatment people. I believe the actions of January 17th are not likely to pass the requirements the State FOIA. And that vote was probably illegal. MAYOR POST: Thank you. MR. WELU: You are welcome.

MS. MARIAN JONES (Behringer Avenue): During the December and January Council meetings, I heard you, Mayor Post, and you, Councilwoman Betts, talk about the Council, its responsibilities, and all that has been accomplished in 2006. Tonight I am here to talk about the responsibility of being a citizen in the Town of Milton. Surely, you agree that it is the duty of every citizen to see that they and others are represented equally, even if that means bringing difficult and often unpopular issues to the attention of Mayor and Council. I was one of four people here on December 21st for a scheduled public hearing and a workshop to review the proposed Charter revisions. I was here when Councilman Harris admitted the Charter was too large to review in a single evening, just four days before Christmas. I was here, Mr. Mayor, when you said you would schedule at least two additional public meetings in January or February for the purpose of reviewing the Charter. You said the Charter would be broken down at each of the meetings so it could be reviewed in smaller sections. I was here when Councilman Dvornick suggested sending the revisions back to the Charter Committee before taking action. By January 17th, when you pushed the revised revisions of Sections 19 and 20 through by resolution, what happened to the public meetings you promised? Why were those meetings never scheduled for public review? A town involved in its own governments makes for a stronger town. Though our viewpoints may differ, we would accomplish much more working as allies. MS. JONES: Thank you. MAYOR POST: I have been through I don't know how many mayors and I have been active the entire time. I didn't wait for a new administration or one that I had an ax to grind with. And I do believe in public comment, and I do believe in public input. But there's a difference, and you may not see it.

MS. STEPHANIE PARKER: I just wanted to ask that the Council and/or the Streets Committee take a look at the parking outside and perhaps think about making it a little more efficient and actually designating parking spaces. With the new businesses coming into town across the street, there are going to be more people wanting to park downtown. And if you actually look outside at the parking on a busy night, when the businesses are full, there's a lot of large spaces between some cars, no spaces between some cars. It's a very inefficient parking use. So I would like you to take a look at that.

MS. NANCY DAVIS (115 Mermaid Lane) Spoke about the lack of street lighting in Shipbuilders Village. "I am heartened to see the Executive Committee is going to be meeting about the litigation tonight. But I'm very, very concerned not only for my safety, but for the neighbors in that area, too. We don't have the lights. If you go out in a full moon, it's very nice. A new moon, it is pitch black. Now my neighbors have the front lights on. They have the back lights on. It's not a good situation. So please, I implore you, just don't sit on it. Get this litigation settled, but don't sell us out. Don't give the builders the opportunity to put more houses up there, where they have told the people who bought up there that there would be a recreational area. Thank you.

MAYOR POST: Thank you. And there will be a report on that later from Councilwoman Betts under Streets and Sidewalks.

**Closed Open Floor:** 7:45 p.m.

2. **REGULAR MEETING** opened at 7:46 p.m.

Mayor Post called roll.

Present: Councilman Prettyman  
Councilwoman Melson  
Councilwoman Betts  
Councilman Frey  
Mayor Post

Absent: Councilman Harris  
Councilman Dvornick

Moment of silence

Pledge of Allegiance.

**Additions/corrections to the agenda:**

COUNCILWOMAN MELSON: I need to remove, under New Business, Item B, Employee of the Quarter, to move it until next month.

COUNCILMAN FREY: Can we amend the agenda to bring Mr. Sombar up and give the audit report before the rest of the meeting so he can get out of here? MR. BRADY: We don't need to amend the agenda. We can take things out of order.

Councilman Frey made a motion to approve the agenda as written. Councilman Prettyman second it. All in favor "Aye". Motion carried.

**Approval of minutes:**

December 15, 2006

Councilman Frey made a motion that to approve that as read. Councilman Prettyman seconds it. All in favor "Aye". Motion carried.

MAYOR POST: The January 8, 2007, and January 17, 2007 minutes won't be available until the next meeting for approval.

COUNCILMAN PRETTYMAN: I was stating that we are going to make the move up for Mr. Sombar, and also, I was making a request that they also would move up the grant -- for the community grant for the library, to move it up, also.

**FY 2006 Audit Report presented by Tom Sombar of Sombar & Company.**

MR. SOMBAR: “Mayor and Members of Council, thank you for moving me up on the agenda.” Mr. Sombar gave a report of the Audit to Council and answered questions and comments. MAYOR POST: I have a question. I remember last year we had a lot of problems with figures and, you know, when we were turning information over to you, records and all. How was it compared--. MR. SOMBAR: Well, it really improved tremendously. MAYOR POST: Because of the new system? MR. SOMBAR: '04 was the really rocky year. And once Gina got on board, things did improve considerably. And Virginia has sort of taken the ball and done very well. So -- MAYOR POST: How is the new system? MR. SOMBAR: I haven't looked at the brand new system yet because the audit was through September 30th. But it's a big improvement, from what I can tell. MAYOR POST: Okay. So it should be even more helpful. MR. SOMBAR: But the recordkeeping/bookkeeping system is light years ahead of what it used to be. And that, certainly, is a pleasure in us doing the audit. And certainly, the cooperation has been excellent, and it certainly has been a pleasure working with the Town Manager and the staff, a lot of cooperation there. And it certainly makes our work easier. Mr. Mayor, we do audit for other towns. And some do a little bit better; some do a lot worse. And it's always a real pleasure to complete an engagement and not have a lot of extra time associated with things unnecessary to get the audit done. All right. Thank you very much. MAYOR POST: Now we are going to need a motion to accept the audit. Councilwoman Betts made a motion to accept the audit as given. Councilman Prettyman seconds it. All in favor, “Aye”. Motion carried.

MAYOR POST: We have had a request, also, to bring up the Milton Library waiver of construction fee at this time. MS. CAROL FITZGERALD: (Director of County Libraries for Sussex County) We want to continue to work to improve the facility, the building itself, so that we are currently getting ready to replace that front facade. The windows are not in good shape, and we want to replace them and create a façade that looks basically what you see today. It will just be substantially better materials. Our windows will be insulated and we will use Drivit, but it will look exactly like it does now. And what I'm asking for is we are getting ready to -- we have made application for the building permit. And I would like to ask you to waive the fee as an educational and cultural institution for the Town of Milton. COUNCILMAN FREY: Mr. Mayor, do we know what the fee is? MS. CAROL FITZGERALD: Yes. It's \$287.40. Councilman Frey made a motion to grant the library, to agree to waive their fees for their building permit. Councilwoman Betts seconds it. All in favor, “Aye”. Motion carried.

MR. BRADY: I suggest that you may want to take that executive session out of order to save the Town some money. Councilwoman Betts made a motion to go into executive session to discuss litigation and personnel. Councilman Prettyman seconds it. All in favor, “Aye”. Motion carried. Councilwoman Betts made a motion to come out of executive session at 9:06 p.m. Councilman Prettyman seconds it.

**Committee Reports:**

Planning & Zoning: Nothing to report.

Historic District Zoning Revision: John Collier gave report.

Board of Adjustment: John Collier gave report.

Economic Development: Councilwoman Betts gave report on behalf of Councilman Harris.

Parks & Recreation: gave report and spoke about Mill Park

Ordinance Revisions: Ginny Weeks gave report regarding consideration for establishing an open space district as provided for under the comprehensive plan, a table reviewing the uses in each zoning district and a review of the definitions. And when we get those back from URS and the Town Solicitor, we will review them and then present them to the Council. Thank you.

Milton Development Corporation: Councilwoman Betts gave report. February 17th, Songs of Frank Sinatra.

Town Manager's Report: Mr. Dickerson reported on Comprehensive Plan Meeting, Robin Davis is new Project Coordinator, James Craig is now Code Enforcement Officer, Charter Meetings, URS update, Sussex County Planning and Zoning – Elizabeth Town, Rails to Trails – Becker Morgan, demolition of 114/116 Union Street, and purchase of pump for Shipbuilders. Councilman Prettyman asked if Allen needed an assistant. Mr. Dickerson stated that Allen said he doesn't need anyone at this time. "When spring comes in, obviously, he's going to need someone else".

Streets & Sidewalks: Councilwoman Betts gave an update on streetlights out in Shipbuilders. Temporary lighting is being worked on, Allen has contacted Delmarva Power and he will meet with the engineer from Delmarva in having a timeline to install this temporary lighting. Councilman Prettyman stated that he would like to have DelDot at the next Town Council meeting regarding Mulberry Street. He stated they were supposed to mill the street and then put blacktop down and they did not. Councilwoman Betts discussed the several different speed zones in front of the school. There is a place it is 35, then it goes into 25, and then 20, so the state will be contacted to see if those signs can be moved past the school for a decent speed zone.

### **Written Report**

Maintenance: Councilman Frey made a motion to accept as written. Councilman Prettyman seconds it. All in favor "Aye", Opposed-None. Motion carried.

Code Enforcer Report: Councilman Prettyman made a motion to accept as written. Councilwoman Betts seconds it. All in favor "Aye", Motion carried.

Police Report: Councilman Prettyman made a motion to accept as written. Councilman Frey second it. All in favor "Aye", Motion carried.

### **Unfinished Business**

**OPEN FLOOR for proposed Ordinances:** 9:22 p.m.

Sex Offender Ordinance 2007-1: Councilman Prettyman made a motion that we accept it as. Councilwoman Betts seconds it. MAYOR POST: Anybody in the public that would like to give any comment on the first ordinance here, Number 2006-4, an ordinance amending Chapter 11, establishing Article 17, relating to registered sex offenders and the location of their residence within the town? All in favor, "Aye". Mayor Post reopened the motion. Councilman Prettyman made a motion to accept the change from 2006 to 2007-1. Councilwoman Melson seconds it. Roll call vote. Councilman Prettyman, "Aye"; Councilwoman Melson, "Yes"; Councilwoman Betts, "Aye"; Councilman Frey, "Here"; Mayor Post, "Yes". Motion carried.

Historic District Preservation Ordinance Number 2007-2: Mayor Post asked for any public comment. Mr. Brady gave a synopsis on what the ordinance is about. MR. COLLIER: There were a couple of items that I just wanted

to address. Now, this new revision addresses enforcement. And I think it has a penalty phase; am I correct? MR. BRADY: Yes, sir. MR. COLLIER: And I think it was the recommendation of the Board of Adjustment that they adopt a schedule for penalty, rather than include it in the language specifically in the ordinance, because then if you decide to change the penalties, you don't have to go back through all of this public hearing and everything else. It can be done by resolution of the Council. You may have just answered that, and I didn't understand what you said. MR. BRADY: Okay. I believe that they suggested a schedule of fees. And I had left that in there, and that was not taken out by the amendment. But penalties are not established under law by a schedule of fees. MR. COLLIER: Okay. That answers my first question. The second question, you addressed demolition by neglect. And I think that we had asked that there be some standard to follow. And it was suggested that we look at BOCA Codes or something similar, that there was actually some portion of their code, which is an international code, that addresses neglect or demolition by neglect. I believe you gave us that information, Mr. Dickerson, or something along that lines. And I think what it came down to was that we actually do that until such time that the Town adopted that as their standard. And I was just wondering if we are going to leave any consideration for that with neglect part, or is that just going to be kind of left wide open? I can't see where we have something that clearly defines what demolition by neglect is. If you fail to paint something and it begins to rot, is that demolition by neglect? Or is that failure to paint? MR. BRADY: I've tried to be specific as to the areas I was directed to be specific. But you are right. We had talked about putting an amendment in, explaining the BOCA Code. And I think that was tabled until the Town had looked into what they were going to adopt as a standardized code. MR. BRADY: It would probably be my recommendation now that perhaps we hold off on this for one month and to get that in. And there was an issue that everybody in the Historic District know these changes were coming up with notice. So it may be my legal opinion, based on those two factors, that both of those issues be rolled over to the next Council meeting so that could be resolved. MR. COLLIER: Well, my thought was that we have as many nonresident owners as we have resident owners within the Historic District, and they don't always have the opportunity to know everything that goes on. So if the Council would consider this, I would greatly appreciate it. Councilwoman Betts made a motion to table ordinance until the persons that are homeowners in the Historic District be notified. And then we should have a public hearing on it again. Councilman Frey seconds it. Mr. Brady stated the motion is to continue the public hearing until the March Council meeting to allow notification to all resident owners and about the fee chart and the penalties and to make sure that copies of the amendment are circulated to everybody before the vote. Roll call vote. Councilman Prettyman, "Aye"; Councilwoman Melson, "Yes"; Councilwoman Betts, "Yes"; Councilman Frey, "Yes"; Mayor Post, "Yes". Motion carried.

Ordinance to amend Article 8, 8.0.7(5) of the Zoning Ordinance of the Town of Milton 2007-3: Mr. Brady gave a synopsis. Mayor Post asked for any public comment. JOHN COLLIER: I think this is essentially clear in thought. It clarifies an area that we recently had a question on, and duty. And hopefully, this will resolve any issues that we have like this in the future. But I think it's a good thing, and I urge the Council to go ahead and pass this. Councilman Prettyman made a motion to accept this as written. Councilwoman Betts seconds it. Roll call vote. Councilman Prettyman, "Yes"; Councilwoman Melson, "Yes"; Councilwoman Betts, "Yes"; Councilman Frey, "Yes"; Mayor Post, "Yes". Motion carried.

Ordinance to amend Article 13, Section 3.1 of the Zoning Ordinance of the Town of Milton 2007-4: Mr. Brady gave a synopsis. Mayor Post asked for public comment. Councilman Prettyman made a motion that we accept this as written. Councilwoman Betts seconds it. Roll call vote. Councilman Prettyman, "Yes"; Councilwoman Melson, "Yes"; Councilwoman Betts, "Yes"; Councilman Frey, "Yes"; Mayor Post, "Yes". Motion carried.

**CLOSED OPEN FLOOR for proposed Ordinances**

E. New and substantial reconsideration of the votes taken November 13, 2006 and December 15, 2006 for, one, to privatize the Town's wastewater treatment system and, two, to engage in contract negotiation with Tidewater:

MR. BRADY: I wrote a letter to the Attorney General on Friday, Mr. Feltman, and said: What does new and substantial reconsideration mean? He didn't get back to me. I called the State Solicitor this afternoon and talked to him at 5:00, Lawrence Lewis. And my letter to the State -- to the Deputy Attorney General asks: What does it mean, my interpretation, because he never used these words in this sequence before? Does it mean that we have to notice it? And he said yes. I said: Does it mean that they need to have basically a discussion, make a record about the reasons why they would want to do one thing versus the other? The sum total of the discussion was that the members of Town Council have to enter into a discussion among themselves, a roll call vote taken with the reasons articulated by the members of Council why they are in favor of or why they are against, number one, privatizing the Town wastewater treatment system. If the majority of the Town Council members pass number one and decide to enter into contract negotiations, the public hearings that were held on November 13th, which allow presentations from both Tidewater and Artesian, would be incorporated into the record. And the members of Council would discuss reasons why they things along those lines, and motion. The motion that was previously made that was put on the record here was to engage in contract negotiations with Tidewater. As the Attorney General's opinion of January 25th, 2007 indicates, the December 15th vote, because it did not state that they were a vote to correct the FOIA, but for Charter provisions -- and in a footnote, the Attorney General said they don't rule on charter interpretation, but they said that the review of the minutes of the December 15, 2006 was that it was a cursory re-vote with no substantial discussions. So as I read new and substantial reconsiderations, each member of Council has to state with particularity the reasons why they believe it is in the Town's best interest, number one, to privatize the wastewater treatment system, the pros and cons, including but not limited to the costs of a new treatment plant, the DNREC violations that have been raised, the bond obligation that would have to be floated, the estimates between 15 and \$20 million to build a new plant, the costs that would be incurred by the Town for that, the costs that would be sent out to the town taxpayers, the property owners, with the potential increase in taxes for borrowing money over 30 or 40 years, the savings, if they believe there are savings to privatize, and the benefits the privatization would include. Those are things that would have to be discussed by members of Council and would be substantial in nature. It could not be just a litany per se. There would have to be details discussed about the reasons, pro and con, and why they as members of Town Council believe it is in the Town's best interest that they vote in that way for that motion. For motion number two, the motion that was previously done was to engage in contract negotiations with Tidewater, there would have to be a discussion about the pros and cons about each of the two presentations, describing with particularity the benefits that each would bring, the negatives that each could bring, and the reasons why members of Town Council believe one, if they should so believe, would be a better party to negotiate with over the other at this point. Do any members of Town Council have any questions about the legalities of what I believe new and substantial reconsideration should be construed for purposes to your votes? COUNCILMAN FREY: Yes, Mayor, as I said before, they have been trying to get a sewer plant in Milton for many years. They came up with a \$20 million figure to put a new sewer plant in. And I feel that would be a big burden on the Town's people. I don't think there is anyone that lives in Milton that would like to kick the \$20 million figure around. I know as a resident on a fixed income, I think it would be a burden to me. So my reason for going private is because I don't think the Town's people can afford \$20 million. Thank you. COUNCILMAN PRETTYMAN: I have to agree with going privatizing. I've sat on this Water Committee for many years. And one summer I think we met every single day and met with everyone. But the one reason of going privatized, to get it up and get it going, is to look out for the taxpayer. Yes, I know we hear Milton, Old Milton, the Miltonians, we like to own our own. But this is the time that we have to stop and look for what is best for our whole community. And privatizing would be the best at this time, so I vote yes. MAYOR POST: We're not voting yet. COUNCILWOMAN MELSON: I don't know that the sewer plant has ever operated in the black. I know it's certainly been operating in the red as long as I've been on. And I think, too, it's been far too costly for the citizens of the Town of Milton, but also for our own employees. Instead of spending time in

other areas of the town that need attention, it's drawn a lot of their time and labor for repairs on stuff that we could just turn over to someone else. COUNCILWOMAN BETTS: I also feel that by prioritizing, it is better for the town, because even if we develop our comprehensive growth area, it's going to take several years. And if we borrow the money or go out on bonds, that we would be paying the bulk of the amount. Two, the town would be paying this, because it's going to take several years to get the growth area up in the developments around the town. And I just feel it's much cheaper to pay monthly the individual sewer bill than to pay a lump sum to the town for a \$20 million plant. MAYOR POST: And for myself as Mayor, I mean I've certainly inherited this problem coming on. But I have been involved for several years, as far as seeing the action -- and in some cases, the lack of action -- to put this behind us and move into the direction of resolving this issue. For me, it's the \$20 million issue. 15 million, 20 million, when you're talking that of money, it's all coming back on everybody in this room, and it's coming back on the taxpayers of this town. And that's it. And that means easily an increase that we could see -- I would -- just to guesstimate, we've had numbers thrown out, 400 to \$600 annually increase. And I think for a few people and many people in this town, that's a burden to put that back onto the taxpayer. And that's where it goes back to -- I think with my feeling with privatization, it certainly will reduce a tax burden on the people of Milton. I also think it's going to help on keeping the utilization fees down, because immediately, if we went into this with the proposed resolution of borrowing the money, we would immediately have to take action of increasing the user fees. I mean we are talking about right now, off the bat, increase the rates to cover this debt. It would be a very serious debt for this town. And I'm with Councilwoman Melson. The plant has operated in the red for years. It's been -- It's not been, you know, a profitable business. It's been a loss for us. It's not like the water business has been in this town. That operates in the black. And also, I think that sometimes you are better off to leave things to the professionals. And I believe the development and the operation of this treatment plant will be overseen by highly skilled professionals in their field, which will certainly make a more efficient treatment plant operating in our town. So those are the issues I wanted to address regarding privatization. MR. BRADY: Mr. Mayor, I have a concern. There has been nothing stated by any Council member regarding DNREC permits, the current violation status, the flow, the lack of EDUs available. And I ask that Council members continue their reconsideration to include those items which I believe are necessary to be discussed as part of number one. COUNCILWOMAN MELSON: We were also under threat from the DNREC. I think it was \$10,000 a day which I don't think our citizens, myself, can afford to pay until we get the plant right, online, and up and running on our own. MAYOR POST: And we did receive a written violation that is going to come with a penalty the next time when we go out of compliance. And usually, the winter months is not a problem. But in the heat of the summer are the serious months where we seem to be going out of compliance. And then we need to discuss the other issues. MR. BRADY: So we are worried. Let me focus you on a third area. Now, the infrastructure that there is the current plant is at excess capacity, that there is a need because of the age of the plant to do immediate repairs and also to come in -- you mentioned compliance, but that -- and you mentioned the costs. But there has not been a discussion about the current permit sites, the current -- where the effluent goes, the staffing levels, and the -- MAYOR POST: Well, I think to bring the sewer plant up to compliance -- we've brought a consultant in here. And it would be well over a million dollars that we would have to put into this current plant, just to bring it up to compliance to operate. It's still at its minimum, because it's at its capacity. COUNCILWOMAN BETTS: We can't add any more. MAYOR POST: And it will not be able to hold our growth area. We will not be able to... COUNCILWOMAN MELSON: We can't expand without being able to offer EDUs. MAYOR POST: Exactly right. COUNCILMAN PRETTYMAN: And not only with the EDUs and everything else that follows, as Mr. Brady has brought up, we are -- if anyone has been through that plant, that plant should have been -- I mean have spent thousands of dollars putting a band aid on something -- MAYOR POST: Yes. COUNCILMAN PRETTYMAN: -- that we need to correct. And a lot of this, I felt that was common knowledge. But I guess it's not. And Mr. Brady has kind of enlightened me on that. And also, to let you know -- yeah, with DNREC -- we also have a permit to discharge into the Broadkill. But that permit is going to be up in 2009. And where are we going to discharge? Where are we going to do -- where this plant, how it is going to

be processed and everything. And we are not going to be putting sludge onto the property. A lot of people have a misunderstanding. When we talk about spray irrigation, they think spray irrigation is putting in sludge. It is not. And if you have ever gone through one of these plants -- and I've been through too many of them -- and you can see the whole process of them dechlorizing, chlorizing, and then it goes back out and that. But just to find out the location, where we are going to have our new plant and to make sure that we are getting out of the Broadkill -- because that is one thing that DNREC and EPA and everyone has said. You've got to get out of DNREC -- I don't mean DNREC. You've got to get out of the Broadkill. And that is something that we are looking at. And I've been to some other meetings, state meetings, where we are trying to get out of the Broadkill. So this is what we are trying to do. We are trying to make that Broadkill River bed so beautiful; also, a healthy river for the children and grandchildren that will be out here playing around. MAYOR POST: And also, because of the current poor production of the sewer plant, I think we are paying about 10,000 a month? How much for sludge removal? Over \$10,000 a month for sludge removal? MR. BRADY: Having discussed the environmental conditions, then you believe it is beneficial for the Town to privatize. You have discussed the economic considerations. You have discussed the tax considerations. You have discussed that the increase in bond indebtedness is not, in your belief, Members of Council, a proper thing for the residents of Milton and especially those who are on a fixed income. You have discussed the increase in the user fees that would be necessary if the plant was to stay in municipal operation. You've discussed the facts that you do not believe that it is cost efficient to operate it as a municipal utility. And for all of those summaries and for all of the reasons you have stated individually, you believe that it is in the best interests of the Town of Milton that the wastewater treatment system be privatized. Is that my understanding, Mr. Mayor, of your substantial reconsideration and the support thereof for that reconsideration -- for that vote? MAYOR POST: Correct. MR. BRADY: Then I believe you may have a sufficient record to have a roll call on the first issue that you have been directed by the Attorney General that I have to certify that you have complied with within 30 days of the vote tonight, to go ahead and have a roll call vote in favor of the first motion to privatize the Town's wastewater treatment system. Roll call vote. Councilman Frey, "Yes"; Councilman Prettyman, "Yes"; Councilwoman Melson, "Yes"; Councilwoman Betts, "Yes"; Mayor Post, "Yes". Motion carried.

MR. BRADY: "That brings you to number two, new and substantial reconsideration of the two votes; number two, to engage in contract negotiations with Tidewater. Previously at a public hearing, you discussed the two different companies' proposals. And that evening each company made one-minute presentations at the middle school, talking about the pros and cons of going with their proposal. You then did a vote that the Attorney General, by letter directive in January of 2007, that the agenda was improperly amended to include a vote. The follow-up vote on December 15, 2006 was deemed not to be in substantial compliance, because only a cursory re-vote was done, and there was not a new and substantial reconsideration. You heard me go in detail for approximately 223 words, at about three and a half minutes, what I thought new and substantial reconsideration meant, about 15 minutes ago, before you took the first vote. Please remember those same words, because I'm not going to repeat them. However, you need to articulate reasons on the record now by why you would want to engage in contract negotiations with one utility over another utility or to go into the other things that were mentioned in your public comments earlier tonight, either a competitive bid process, or a competitive negotiation process with the two utilities, as a member of the public stated earlier this evening to you. To duly comply with the new and substantial reconsideration, initially, if there is any member of Council that feels they have a conflict of interest, they should make that notice right now, and they should not participate in any part of those discussions. And any remaining members of Council, including the Mayor, can, by discussing the pros and cons of the different options that were presented. You must make a record sufficient that shows that you discussed all the issues that have been raised by the Attorney General's opinion so you do comply with new and substantial reconsideration.

COUNCILWOMAN BETTS: Mr. Mayor, I would like to recuse myself, as I may have a conflict of interest that I do not want to affect this vote. COUNCILMAN PRETTYMAN: Thank you. Once again, I feel that the Council should go with negotiating -- personally -- Let me go back. Okay. Oh, I can get away with that. First off, I think we need to have Artesian and Tidewater to make a longer presentation, because at the school quick presentation. And I don't think either one had their best foot forward on their presentation. They were good, but it could have been better, I feel. I feel that we need to negotiate with or negotiate for the bid on it, because it is something that is going to cost the Town money, the residents here money. And a lot of them -- or a lot of you, are like me -- on a fixed income. And I think for the best interests of our community, it would behoove for us to go out and look. As was said earlier, when putting a roof on your house, you go out and get bids. When getting carpet for your home, you go out and get bids, or you shop for furniture. You shop for everything. Why are we going to just take one person? And that is my whole thing. I don't have anything against either one of them. I'm not part of it. But I do feel that for the best for negotiate with the two of them to see what one is going to give us the best for our money. COUNCILMAN FREY: Yes, Mayor. We did meet with each one of the companies. And the questions that I asked to both companies, Tidewater gave me the answers that I wanted to hear. And Artesian didn't give me answers that I didn't want to hear. One question that I asked was to Artesian: Can you build us a plant for the Town of Milton only? They didn't want to talk to me. They said no. I think we should have our own plant. Tidewater said: Yes, we will build a plant for the Town of Milton. Another question I asked was: What about the old sewer plant? Artesian didn't want to hear anything about it. But Tidewater said: Yes, we will remove the old plant for you. Other questions that I can't get into right now were answered the way I wanted them to be answered, and that's why I'm going to go with Tidewater. COUNCILWOMAN MELSON: I think in negotiations -- and I'm not stating that Tidewater may be 100 percent better than Artesian. But I think in starting negotiations, I felt that you started with a company. It happened to be Tidewater that was chosen. I personally liked Tidewater through some of the talks that we had through the ad hoc committee meetings. I also liked that they were an established company, not by a fly-by-night. They had a willingness to hopefully use the property that the Town had acquired for the water/sewer plant. They were interested in looking after our existing employees that were there, if we so needed them to. And they also mentioned about taking over the problems that we had -- the inherent problems that we have with our existing plant until they were to take over completely for us. So in choosing them first to negotiate with is why I felt the need to go with them. MAYOR POST: I think there certainly was a sense for Milton to taking this on as a plant for the Town of Milton. I did not see it associated as a more regional conglomerate sewer plant. I looked at it --and I'm not saying that there wouldn't be any other type of connections coming into this plant. However, let's face it. We are only talking about 18 acres. So you're not going to be building this huge regional plant on 18 acres. They also were very willing, very eager to buy the land that we've secured for the sewer plant. Artesian had no interest, none whatsoever, in doing it. Also, they were -- Tidewater was very willing to protect our comprehensive growth area. When we asked them: Would you go to bat for us to make it where we would have the right of first refusal of annexation into the Town of Milton any land in our comprehensive growth, Tidewater said they would go all the way to the bat, as far as to legal action for us. Artesian says: Oh, we don't want to get involved in that. That's not our place. That's up to you. We are going to take them, no matter what. So to me, there was a big difference there, protecting our comprehensive growth area. Also, they were 100 percent willing to use our design/build package. Artesian had no interest in the design/building package that the taxpayers of Milton have just paid 150,000 for. Not only was Tidewater willing and wanting to use the design/build package, they said: We will pay you \$150,000 for that design/build package. So they are reimbursing the taxpayers for that, as well. So also, they, to me, showed a very willingness to adapt to the needs of this town and to our sewer plant, our current sewer plant problems, with a plan on how to get us out of this permit violation rather rapidly. But I think for one thing, I felt, you know, we are going to have a long-term partnership with who we decide on this contract. And I feel, for me, the things of the willingness to using the existing land, to using the design/build, but most important, to protect us from our comprehensive growth area and to urge people for this town to have the option to say no to annexation, not to

make that decision before it even gets to that point, but to bring them in and have them sit down to the table and we say: Yes or no, are we interested? After that, they can negotiate their utility deal within themselves. So that's why I'm interested in Tidewater. I felt there was a genuine partnership bond of meeting the needs of this town. And as I say, I did not feel like we were going to be just a piece of the conglomerate, but that we were having a plant built for this town, which is what we need. COUNCILMAN PRETTYMAN: I'm hearing things that they had said in their three little groups. And I don't know. I don't know the credibility of what they heard, what they didn't hear. That is the reason why I feel that we should have a group with all the Council members there; not three in this one, three in that one and three, because everybody hears what they want to hear. But if you have all Council, and Tidewater makes this presentation to the community and to the Council, Artesian makes their presentation; also, to the community and to Council, we are all hearing the same thing. But right now, tonight, is the first time I'm hearing what Mayor Post and Councilman Frey had to say. I feel to have a true and honest would behoove us again to do it right and to have a meeting where they can come in or Tidewater can come in on an evening and do a presentation and also do one on a morning weekend to get the weekend people and everything -- and the same thing with Artesian -- to have that same communication. There are things that I'm hearing that I've never heard before. We talked about this transparency. Give Tidewater the opportunity to address the Town and Council and give Artesian. I feel that we need to negotiate to get the best for the best. MAYOR POST: I don't understand how you are going to have proposals and some of them are not. It would be interesting. MR. BRADY: Mr. Mayor, I'm concerned with new and substantial reconsideration, based on the comments so far. What we needed, as I read the Attorney General's opinion, would be that there would have to be sufficient information in a preliminary manner from each of the two companies, where the Council members could compare and say: I believe this is better for this factor, this is better for this factor. You have raised some factors. I have not heard factors which involve a timeline. I have not heard anything from either of the companies on DNREC compliance, utilization of personnel, the utilization of the current permits, initial costs. You did -- and your comments did have some factors about reimbursement to the Town, where it was by one company would reimburse the Town for the costs involved in the design/build. But in looking at new and substantial reconsideration in the research I did, as I advised before, the Attorney General's Office indicated to me it would have to be a substantial discussion. And I ask you to continue discussing. But at this point I would caution you right now against a vote, because I don't believe that if this went back to the Attorney General's Office on a review, that they would determine there was substantial reconsideration for number two at this point right now, that there have not been enough of the factors that may have been discussed in the November 13th public hearing and the previous presentations. But you can continue to discuss it. I'm not at that comfort zone where you have a sufficient reconsideration yet to advise you that it is okay to go to a vote. COUNCILMAN FREY: Mr. Mayor, if I remember correctly, Tidewater said that they would get us within compliance with the old sewer plant before they started to build a new sewer plant for us. And Artesian didn't mention anything about getting us into compliance with the old plant. And that would bring us in compliance with DNREC for at least one year, until the new plant was built. COUNCILWOMAN MELSON: He's correct in that. They did say they would be the one working with DNREC with the compliance issues. You just can't remember it. And they were going to take on the existing problems with the existing plant for the Town while they were building the new plant. And Councilman Prettyman is remembering some of it now. COUNCILMAN PRETTYMAN: Where do we go from there, Mr. Mayor? MR. BRADY: That's one factor, but I still think we need other factors. Why do you think one is better than the other? COUNCILWOMAN MELSON: Well, I think we are reluctant in speaking out too freely is because of the negotiations. That's what they are. MAYOR POST: I mean that is why I'm very confused on this issue. MR. BRADY: The Attorney General's Office ruled that there was no reason why the discussion between the factors -- why one was ranked over the other could not be shared in public. That was the essence of the Attorney General's ruling. So they ruled there was not anything that was considered proprietary in nature, based on their review, and that all the factors would have to be discussed in order to select somebody to be retained into a contract. If you wish, as I said, you do have options. You heard other options tonight. The motion that was noticed was to re-vote what was voted on November 13th and

December 15th to engage in contract negotiations. New and substantial reconsideration would say a comparison of one versus the other indicated the following factors favor A, the following factors favor B, and it is the interest of the Town that factors or that influence A were better than B. But you have to make that record. I can't create that record for you. That is what they told me new and substantial reconsideration was, what the comments were among the Council members. It was not noticed. And the Attorney General's Office said there was not a need for a public hearing per se. The only need was that the Council members had to list all the factors that made their decision to go in one direction instead of another. COUNCILWOMAN MELSON: Which I thought that is what we have done, or do you want more? MR. BRADY: The Mayor asked me, did I feel the record was sufficient to support that you had new and substantial reconsideration? And since the record at that point did not have anything dealing with DNREC and the obligations the Town faces in the future and the representations made by one company versus another on DNREC, you've answered that part of it. But there are other issues about timing, staffing, personnel, and other requirements that the Attorney General's Office deemed that were not matters that should be private that had to be brought out in public to support your decision. This is the time to talk about them. COUNCILWOMAN MELSON: We did mention staffing issues. Tidewater was willing to take on the existing town employees, if they so choose to, which was a plus with me in taking care of our existing employees. Knowing that we were going to lose the sewer plant, it might have been considered that we didn't need as many employees as we had. Tidewater offered to take on the existing employees, if they wanted to go with them and take care of them, because they wanted their expertise. That was one plus for me. The other issue, like I had already stated, was the land use, taking over the property that the Town had purchased for the sewer plant. They offered to take that on. Artesian did not. COUNCILMAN PRETTYMAN: Artesian did say they would make sure our employees at the plant would be going on. Tidewater, it was a question. They may need them, and they may not. But Artesian, point blank, flatly said that they would carry them over as they are building the plant and they would. MAYOR POST: And Tidewater did, too. So then I guess that is a wash-out on this one. COUNCILMAN PRETTYMAN: Artesian did say that they would carry the employees over with them, as they build and everything, and move them into positions in their organization. Artesian, I believe, as an organization, has been around over a hundred years. And someone said something about a fly light, fly night, fly something -- Fly-by-night. And I don't think that Artesian is a fly-by-night, because they have been around over a hundred years. That is a few years longer than I have been and everything, but I'm getting close. But I still feel that, you know, they are -- and Artesian also talked about getting us out of the Broadkill at a much earlier time period than Tidewater. Artesian also brought up, you know, that getting us out of the Broadkill, getting things where -- Tidewater wants our permit only to keep in the Broadkill. And we are trying to clean up our Broadkill. And Artesian is the one that says: We can have you out -- I believe it was in 18 months. And then Tidewater came back and said: Well, we can do it in blank months. And then that was a back-in-the-forest thing there, and then it went blah, blah on me. But this is the thing that I mean I'm hearing, you know. That is why I'm saying, we met in groups of threes. I think we need to meet with Tidewater and their people and a group with all Council members, and I think that we need to meet with Artesian and all of their people, a meeting, so that we can all be on the same table. And he heard this, she heard that, I heard this, he heard that. No, we are all going to be on the same table, because you, the public, are going to be there. You, the people that are going to be raising their -- and Tidewater even talked about raising the water up probably about ten percent. Your rates would go up over ten percent and everything. But no one else heard that and everything. But no -- excuse me. This is the time Mr. Brady and Mayor Post have asked for this. And I have the floor right now, and my lips are still moving. And I just think that we need to really listen to the residents of the Town of Milton. They spoke up tonight. And they are even saying: Come on. Let's negotiate. What is the difference in negotiating? Artesian mentioned EPA, how they would be talking with EPA, how they would be in contact with DNREC, and all of these other things. And also, Tidewater brought up basically the same thing that they would follow through on it. So that's why I feel that we really, really need to have a negotiation. GMB has done a design for us. So why not let them set up a bid package for Tidewater and for Artesian? Let them bid on this. Let them make their presentation to the residents of the Town of Milton.

COUNCILWOMAN MELSON: Well, you went from not hearing anything to hearing everything Tidewater didn't say and everything Artesian had to say, and that surprises me. COUNCILMAN PRETTYMAN: Well, that may surprise you. But I have been sick, and I'm coming back. Councilwoman Melson, I feel that we all still need to -- I don't care what Tidewater said, what Artesian said. I think the residents need to hear from those people that are going to be putting in the water and sewer. Those people, they can ask all the financial things. They can ask all the equipment. They can ask these questions, Councilwoman Melson, and I feel that we need to negotiate with the two of them. MAYOR POST: Councilman Prettyman, also, I do want to touch on something you said about them getting off the river. As I recall in that meeting, at the public hearing where both presented, where we heard from both contractors, proposed contractors, that all of a sudden, Artesian, I thought at the end, was saying they were going to get us off last month, because it went down. They changed the time month to the time month. Tidewater was a straight shooter, saying: This is the realistic timeline. We cannot get you off in six months. We cannot get you off in a year. They were being very realistic. MAYOR POST: Well, because you have selective hearing, obviously, because you certainly have heard everything else that you were just quoting over there. COUNCILWOMAN MELSON: And truly, you are a sampling of the citizens of Milton. But you are not the entire citizens of Milton that we have heard from all this many months, too, all the ones that sat through the ad hoc committee meetings. MAYOR POST: You are exactly right; you do. Nobody is saying you don't. But you know what? There are other people that have complete confidence in the decisions we make. Well, that's what happens with elected officials. And you know, under contract negotiation, I believe -- which people have showed concerns about, our solicitor has years of experience in contract negotiation. I, right now, manage 23 contracts for the State of Delaware. And I've seen the poor excuse of contracts that were negotiated in this town in the past that did not protect the citizens of this town. So please don't ever question, as I've heard from several out there, my ability to negotiate a contract. Also, our Town Manager is highly professional in negotiating contracts. And also, you know what? When you negotiate a contract and you put out a contract, there has to be a dollar value of costs. All I've heard is costs, costs, costs. Quite frankly, this shouldn't cost anything to the taxpayers of Milton. So you know, I think it is where you are going to bat on this issue. The thing is, this is not an easy type of negotiation of a contract. It is not like you are putting out an RFP with specifics on what they are going to spend the dollars on and what they are going to put the dollars on, because quite frankly, I see no dollars to us in this issue. COUNCILWOMAN MELSON: Would we be here if we had chosen Artesian first? COUNCILMAN PRETTYMAN: Absolutely. COUNCILWOMAN MELSON: Would we be arguing the point? COUNCILMAN PRETTYMAN: I don't know. But I have to say one thing about George Phillips. I did not know that Mr. Dickerson had had several meetings, several private little meetings, with Tidewater before Artesian was even in the picture. No one knew about it until that night at the middle school where Mr. George Phillips, he stood up and said: Wait a minute. I haven't been contacted, our office. And then Mr. Dickerson made a statement that said: Where is your card, like he couldn't look that up in the computer and make an invitation to him. So I feel that all those private little meetings that they had with Tidewater, long before Artesian came into it, is not fair. I still think that we need -- MAYOR POST: Well, Mr. Prettyman, I believe you had yours, as well. COUNCILMAN PRETTYMAN: I still think that we need to go down this road of negotiation. COUNCILMAN FREY: The Town was also called by Tidewater, trying to get one of our employees to go work for them. I think that was in the last two weeks? Sam Allen quit. He gave his resignation on February 2nd. He's going to work for Rehoboth as an electrician. Tidewater called the Town and asked if Sam Allen would go to work for Tidewater as an electrician. I don't know if they got in touch with him or not, but he did resign from the Town, and they did call two weeks ago to try to take one of our employees to work for them. That is not convenient to hear once we get a new plant. MAYOR POST: Councilwoman Melson, considering that you have chaired this ad hoc committee for -- and you have been very active. And what is interesting is that both of these very contractors were at the table several years ago. COUNCILWOMAN MELSON: Both presented well. Artesian at the time was presenting -- they were tied in with, if I'm not mistaken, Island Farms. Tidewater stood alone when they did their presentations. But at that time, the Town still wanted to stay with themselves, build a plant and, hopefully, turn

a dollar on it, is why the ending result of the ad hoc committee was to do a design/build, which is where we are up until right now. Tidewater then was very straightforward. And anyone at any point in time could have gone and looked at the minutes of any of those meetings to see if what they offered then was just as good as what they would be offering now. I think the public has had an opportunity in the last four years to sit in on any presentations with Artesian or Tidewater through the ad hoc and, more recent, out to the Mariners School. It was a well- advertised meeting that they could have asked anything they wanted to. COUNCILMAN PRETTYMAN: Well, let's go back to when Tidewater and Artesian and the other several water companies we met with two or three years ago. It was a totally different thing at that time. And the Town didn't know what they wanted, and we were just feeling everybody out. We met, and we met. I sat there with you, because I'm on that committee with you. And we met. The Town did not know what they wanted. Now the Town knows what they want. They want to privatize. The thing is that the Town has made their mind up, and we have said we would like to privatize. But at the same time, there was one -- Mr. Dickerson was dealing with Tidewater behind closed doors or wherever, and no one else, until Mr. Phillips got up and made his statement there. He wasn't really prepared to give a presentation. I think that we should hear a real, true blue presentation with the slides from Tidewater and from Artesian. That way, no one can say: We just went with Tidewater because. And this gives us that opportunity and gives the Town -- because a lot of people that are here tonight, that are here in our town now were not here four years ago. And I think that we should give them the same opportunities that we have given the town, the people that were there before. So I just can't reiterate enough to say we really, really should listen to our taxpayers, the ones that are putting us here to speak for them. MAYOR POST: I do also want to clarify that it is the Town Manager's responsibility to seek out any possibilities. And don't grab that mike right this second. I know where you are going with this. But anybody that is proactive that wants to contact the Town and talk about considerations of what possibilities are out there, it's a free enterprise, in case nobody knows that. And if Tidewater had the ability, if this is what -- you keep making these accusations. And I've certainly heard some things, as well, Councilman Prettyman, and I won't go here tonight on other issues that involve you -- that I don't think you need to call the judgment on those things. That's called business. He is our Town Manager. Did you not have to send certified letters to Artesian in order to get them to even cooperate? Certified letters? They wouldn't return the call, correct? And we did it through certified -- we took certified letters to make sure there was a fair opportunity on the plate for all parties. And we have the documented certified letters, when they went out, when Artesian was notified, as well. So you know, let's play fair as fair on this issue. And we do keep documented records very well. COUNCILMAN FREY: (to Mr. Brady) Have we met our obligations with the Attorney General's Office tonight? MR. BRADY: Since the last time I spoke, you had a lot of consideration. COUNCILMAN FREY: Can we make a motion? MR. BRADY: After I hear the motion and then hear the reasons for the support of the motion, I will tell you if I think it is, in my opinion, if there is enough reconsideration to support the motion. Councilman Frey made a motion to accept Tidewater as our wastewater treatment builder for contract negotiations. Councilwoman Melson seconds it. MR. BRADY: Now, the motion that was before was to engage in contract association with Tidewater provided a successful contract had not been negotiated with Tidewater, then the contract negotiations would be open with Artesian. COUNCILMAN FREY: I think it is a win-win situation for the Town. I think it's a hundred percent better than what Artesian has offered us. And I'm going to stick with my recommendation to take Tidewater. MR. BRADY: As part of this discussion, Council members should indicate the specific reasons why they believe Tidewater, from your motion, would be a better choice to engage in contract negotiations than Artesian and to list, with specificity, all the factors which you, as a councilman or councilwoman, feel is important and meets your determination in support of the motion or against the motion as however you may come down. COUNCILMAN FREY: Tidewater is going to take our old sewer plant and do away with it. Artesian is not. Artesian is not going to -- they don't even want to hear that we have 18 acres or 20 acres. Tidewater is going to buy the 20 acres from us, and then they are going to give us two acres back to put a town garage on, which Artesian doesn't want to know anything about it. Tidewater will build a plant for the Town. Artesian doesn't want to hear anything about building a plant just for the Town. COUNCILMAN PRETTYMAN: Once again, I

cannot go with Tidewater, and I cannot go with Artesian. I feel that we must negotiate to get the best for the best. Both of them have mentioned about getting out of the Broadkill. Both have mentioned about doing the -- with the plant, keeping the existing plant until it is built. Well, first off, we all know they have to keep the existing plant while they are building anyhow, because where are we going to go with it? And I just think for the residents and the taxpayers of this community, that they should have the right to hear both of the parties at a presentation so that they can hear, not what we heard in our individual three groups meeting, but what is being said on a whole. And then they can take it one way or the other. And I just think it would behoove Mr. Dickerson and this Council to have the negotiation between the two parties, Mr. Phillips and Mr. Esposito, in order for us to get the best price, because it's going to be the taxpayers that are going to have to pay down the road. COUNCILWOMAN MELSON: Again, as I stated before, in going with Tidewater, it was an established company, their willingness to use or buy back the existing land that we had purchased for the wastewater treatment plant, their willingness to take care of our existing town employees, if need be, also taking the initiative to run the old plant until the new goes online and, also, go to bat with DNREC on permit violation issues until we get a new plant in place, and also to help the Town out with their future growth issues. MAYOR POST: I'll reiterate on the interest in Tidewater. Again, as I stressed, one of my big points -- and I think you have all of your bases as the back of why in your reasoning -- is that they are going to utilize the land that we have planned for the sewer. They are completely willing, not only to utilize that land, but purchase that land from the Town. Also, again, like I said, they were not only interested in the design/build package, but they will reimburse the Town the \$150,000 regarding the design/build package. Most important is they will protect our growth area. And yes, that was asked at both, because I specifically -- because that is my biggest issue. And both were asked at the public hearing, as well as the educational forums that were held. And there was no interest in Artesian going to bat for this Town in our growth area. And Tidewater said they will protect us in our growth area and that they would give us the right of first refusal, to push them in to us to get the right of annexation and decide whether this town wants the annexation or does not want the annexation. As well, like I stated, they will reimburse us for the GMB design/build. I still feel it's a sense of a plant for the Town of Milton. 18 acres is not a conglomerate, at which you are looking at. Just the retaining ponds or whatever they use out there on the sewer plant will be bigger than that in a regional plant. So 18 acres, what we are looking at, is more of a plant that is customized to our town. Yes, there might be some other small areas that come into it. But it will certainly be a plant for the Town of Milton. I think they had a very good -- you know, their timeline with the sewer plant and the compliance timeline to getting off the river, I think, was realistic. As well, it was -- I feel that they had a plan for satisfying our permit violation. That certainly made a lot of sense to me and drove my interest more with that, as well. So that's where I'm staying with this, that these are some of the biggest issues of protecting our comprehensive growth area and building the plant to our land and also keeping it a more smaller plant and not a regionalized connected plant to other towns or other huge developments. Now we need a call for a vote. Roll call vote. Councilman Frey, "Yes"; Councilman Prettyman, "No"; Councilwoman Melson, "Yes"; Mayor Post, "Aye". Motion carried.

Town Manager contract:

Councilman Frey made a a motion to approve the contract. Councilman Prettyman seconds it. All in favor, "Aye". Councilman Prettyman, "Aye"; Councilman Frey, "Aye"; Councilwoman Melson, "Aye"; Mayor Post, "Aye". Motion carried.

MAYOR POST: You will see it on the Internet. MR. BRADY: The contract is not for a definite term. It complies with all the terms and conditions of the current Charter. It has a provision in there. If the Charter is changed, then both parties agree to enter into good faith negotiations to have a contract permitted by any charter change. But the Personnel Committee asks if there could be a contract for an indeterminate time. And it says -- the contract says that, that with the reference of the Charter provisions that state that the majority of Council can

terminate the Town Manager with or without cause. And it has the provisions that the Personnel Committee and the Town Manager negotiated. And I approved this, the legal form. There has been some questions tonight about another issue. And the Attorney General's Opinion 03-IB06, revised February 11, 2003, states in pertinent part: FOIA entitles citizens to have notice and attend meetings of public body to watch the discussions of public business, but does not afford the public any right to participate in the meetings. I state that, because in the beginning tonight, there was public comment available. There are meetings where public comment is listed. When public comment is available, that opinion further states: If a public body chooses to allow public participation in a meeting, however, they must treat members of the public fairly and evenhandedly. Earlier tonight -- it was way earlier tonight -- about 7:15, when public comment opened, everybody that requested public comment, up to the time limit that was imposed, was able to comment on any of the topics, including topics for tonight. For purposes of the new ordinances, it was reopened for public hearing. So as the people wanted to make comments on the ordinances -- since that requires, under the Charter, a public hearing, that public hearing was incorporated. But in question, there were some members of the audience that said: Why didn't we have a right to comment on either of those two motions? You did, and you had it. But you don't have the right, under that Attorney General's opinion. And that is available online. And I'll give you that number again. It is 03-IB06, revised February 11, 2003. I reviewed it for another reason that the -- The question was if you have five members of Council here and you have a sixth member who was out of town because a parent was ill, could he participate --he or she participate by speakerphone? And the Attorney General, in the opinion, said they could as long as the speakerphone could hear all the comments back and forth. But logistically, we could not do that tonight. But there had been that request, so I have been doing some research.

### **New business**

The Preserve America Community Grant: MAYOR POST: there is some grant availability out there as it relates to historic -- I think with tourism and other preservation areas in the town. Anybody that would like or would be interested in participating on a committee, please go into the Town Hall and fill -- there is a committee form there -- and fill out an application so we can seek funds in this area. Also, we have one thing that needed to be voted on from executive session. Councilwoman Melson made a motion to hire Attorneys Max Walton and Josiah Woolcott, of Connolly, Bove, Lodge & Hutz, to help handle pending matters with the Public Service Commission. Councilman Frey seconds it. All in favor, "Aye". Councilman Prettyman, "Aye"; Councilman Frey, "Aye"; Councilwoman Melson, "Aye"; Councilwoman Betts, "Aye"; Mayor Post, "Aye".

### **Adjournment**

Councilman Prettyman made a motion to adjourn at 10:51p.m. Councilman Frey seconds it. All in favor. "Aye", motion carried.

Respectfully Submitted,

Julie Powers  
Executive Secretary