

Milton Town Council Meeting
Milton Theatre, 110 Union Street
Monday, April 7, 2008
6:30 p.m.

1. Mayor Post called the Public Hearing to order at 6:41 PM

Roll Call for Council attendance:

Mayor Post	here
C. Martin-Brown	here
C. Duby	here
C. Hudson	here
C. Abraham	here
C. Betts	here
C. Prettyman	here

2. Councilwoman Betts called a Moment of Silence.

3. Pledge of Allegiance to the Flag.

4. Swearing in of:

- a. Don Post, Mayor
- b. Ronda Abraham, Council
- c. Joan Martin-Brown, Council

5. Executive Session: Discuss Litigation and Personnel

Motion made and seconded to go into Executive Session. Motion carried.

Motion made and seconded to come out of Executive Session at 7:43 PM. Motion carried.

6. **PUBLIC HEARING: Resolution to request the Historic Preservation Commission to review the historic preservation district ordinances regarding renovation and demotion.**

Mayor Post: Resolution request to the Historic Preservation Commission to review the historic preservation district ordinances regarding renovation and demolition. Whereas the Mayor and Council of the Town of Milton wish the Historic Preservation Commission to review the Historic Preservation District ordinances regarding renovation and demolition within the district for health, safety and permit requirements. Whereas the review of said ordinances shall be complete in order to report back to Mayor and Council of the Town of Milton by July 25, 2008 so the report of new ordinances if necessary can be presented at the August 4, 2008 Town Council Meeting and referred to Planning and Zoning for consideration at their meeting of August 19 and a Public Hearing on September 2, 2008 Town Council Meeting. Whereas during this time period public comment can be received until the public hearing at the Town Council meeting on September 2, 2008. Now therefore be it resolved by the Town Council of the Town of Milton that the Historic Preservation Commission review the Historic Preservation District Ordinance regarding renovation and demolition within the District for health, safety and permit requirements. First reading was March 3, 2008. The Public Hearing is April 7, 2008. This is the public hearing for this resolution. Any members of the public who wish to comment on this resolution please come up to one of the microphones and identify themselves by name and then they can make their comment. Thank you.

John Brady: Mr. Mayor, one note. Last month, we asked about Professor Reed at Widener Law School being available to assist with this project. I talked to Professor Reed this afternoon and he is willing to help out. He is the pro bono counsel to Preservation Delaware and will be in Seaford on April 22, 2008 doing a presentation on historic preservation. He asked that a copy of the ordinances be sent up to him and he would be more than happy to help out the committee. My understanding was that there would be no charge to the Council or the Town.

????Jim Wheeler ????: 30231 East Mill Run, Milton, DE. I don't know if this is the proper place to make this comment but I think in the review of the historic district regulations I think you should – or at least I would hope that you would –

direct the Historic Committee reviewing this to, I think, make clear that outbuildings of historic character should be looked at closely in terms of preservation and not just the house. Secondly, if this is not in the ordinance – and I don't think it is – that vacant lots within the historic district ought to subject to review by the Historic District Commission. Not that houses have to be necessarily completely historic in character that are built in the historic district but they certainly ought to fit in with the historic district and not be so out of character that they become basically to what I would think someone who is interested in historic properties is an eyesore. Thank you.

Mayor Post: Anyone else who would like to comment?

Councilwoman Hudson: I have a question. You used the words request and wish in this resolution. Is it the will or opinion of the Historic Preservation Commission that they will agree to do this to review the ordinances?

Mayor Post: Well, it is part of their work so I would assume that when the job is passed to them they will assume that responsibility.

John Brady: It is a syntax issue. I could have put direct. I said wish because wish is what normally councils do to their committees. They wish they would do that and then they respond back as such. Direct has always been a tough word for me. Order is a tougher word but that is another word you could put in there too. Usually, judges do that and I am not at that level.

Councilwoman DUBY: Mr. Brady, question. The professor that is willing pro bono to review the ordinances; would that be in concert with the committee, would it be prior to the working of the committee, would it be after the work of the committee?

John Brady: I don't know. I hope so and I will make it happen.

Councilwoman DUBY: Thank you.

John Brady: When I talked with him, I also believe that URS and Debbie Pfiel will be assisting in that project. I thought I would get everybody together. I would invite him down and feed him a nice dinner and then get him over here to work.

Mayor Post: I would hope that what they would be doing is a comprehensive approach with the existing zoning ordinances for the historic district. But, also, at the same time would expect them to see anything that is missing. There are three key issues here. There is demolition. There are renovations and alterations to existing historic structures. And, there are empty lots and how you do them. I know there are towns – especially up in New England – that have addressed empty lots and the way the infill – the construction should be within an historic district to be appropriately in keeping with the district and the streetscape. They should be able when they are working on this very easily to pull things from the internet. Several months ago, when I was looking about the infill lots, there are a lot of ordinances already out there. It is possible that working with this guy who has a lot of experience in preservation and at the same time, we need to be talking to Historical and Cultural Affairs out of Dover so we don't have some of the issues we have had in the past. If there are no more comments, I am going to close the public hearing at 7:52 p.m.

7. Public Participation

Catherine Gregg: I am Catherine Gregg. 326 Union Street. I am speaking tonight as President of the Milton Garden Club. For the past two or three weeks, we have been busy with two projects that I am hoping you have noticed as you came to the meeting tonight as you walked along the streets. The first one is the installation of the little fences around the tree wells. It was a project that we had hoped to do for two or three years. Only because we had a very successful garden tour in 2008 were we able to have the money to do it. This will enable us to really protect the plantings there. It was a problem with people stepping on things and also dogs walking through. Trash and cigarette butts are a big problem. The little fences probably won't help the cigarette butts very much but maybe it will call notice to the fact that there are flower beds there. We are experimenting at this time with what to plant in them. I am hoping to have a lot of permanent plants that won't have to be removed. I couldn't resist because after a drab winter I love the flowers of the

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spring and I really couldn't resist the two out in front of the theater with the little Johnny Jump Ups. The second project was the planting in the planters of the early spring flowers. You may not like the weather that was today but they love it. They are called cool weather plants. They are innocuous pansies, violas, primroses, and oriental poppies. Actually, for your information, they can withstand temperatures down to about 26 degrees if it doesn't occur more than three, four, or five nights in a row. I am hoping for many, many reasons that we don't have 26-degree nights or not even one. We are busy planting the annual garden tour which will be held Saturday, July 12. The concentration will be on Federal Street, Chestnut Street and Mill Street. Thank you so much.

Councilwoman Betts: I would like to thank you because it is so lovely. The fences look so beautiful. We really appreciate it.

Catherine Gregg: We copied some of the big cities so now we are like Charleston, SC and Washington, DC.

Mayor Post: Atlanta, GA and Philadelphia. [Everyone clapped.]

Charlie Fleetwood: I live at 108 Bay Avenue. First of all, congratulations, Donna, Joanie, and Ronda on your reelections. I am here tonight as the Chairman of the Past 200 Anniversary Committee. I am going to read a letter. When I am done, I will tell you what happened. [Read letter to Mayor Post and Members of the Town Council] I talked to Mr. Dickerson just before I read all this and he has informed me it has already been taken care of. It is a moot point but we did want it read into the record tonight mainly because just in case someone does read the audit report and thought that the Town's celebration cost the taxpayers almost \$60,000. This is not the case at all. Also, some of use might not be here for the 225th – I plan to be here – whoever runs that which won't be me, doesn't look and say that cost \$60,000 the last time and we can't do that. One more thing, this year the Town's concerts will start in the park on May 23, the week before Memorial Day instead of the week after. They will continue until Wednesday the day after Labor Day. This year, we will have 16 shows. Come every Wednesday night. If they are not in the park, they will be in here. Thank you.

Councilwoman DUBY: Is it appropriate we thank Mr. Fleetwood for these wonderful summer in the park efforts?

Mayor Post: Yes. [Everyone clapped.]

George Dickerson: The Mayor called me Sunday – I was watching a race by the way – one of the issues was with regard to the audit report. Today, one of the priorities I had the town clerk and I had the financial person do was make contact with Tom Sombar. Of course, trying to get up with an accountant prior to April 15 is pretty tough. We made it a priority call to address the issues but we found some issues of our own that I will speak to in a little bit with regard to that audit report Mr. Sombar did last month. To speak specifically to that I would like to read an email to me from Jen Conwell, who is our financial person plus note a conversation she had today with Mr. Sombar. [Read email.] Charlie, you are absolutely right that he misspoke and he told Jen that today when I had talked to her more about what he said. Tom is more than willing to make those corrections to that summary and we will make sure we get a corrected letter to you. Thank you. We will be more than glad to do the press release. You are absolutely correct.

Charlie Fleetwood: Thank you for a prompt response to our request; we really appreciate it. Unfortunately, I can't take the credit for picking it up because I didn't read it to tell you the truth. I did get phone calls from Patty Millman and Janet Lank Mary Catherine Hopkins who did see it. To be honest, I have sat where you guys have sat and I probably would not have caught it either.

Councilwoman Betts: I did pick it up and when I had my taxes done, I related that error to Tom Sombar also.

Charlie Fleetwood: Thank you, Leah, I appreciate it.

George Dickerson: Also, I want to talk about the rails-to-trails expenditures because some of those were misreported and will be worked on also. During the March 2008 presentation of financial statements by Mr. Sombar, he made a statement in regards to the rails-to-trails project. As many of you know, the rails-to-trails will start about where Cannery Village is there on Chestnut and come across to Federal Street in a first phase. In the statement, he said there are rails-

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to-trails expenses of \$60,000. I have provided below a breakdown of the actual expenses comprising this \$60,000. Because it sounded as though the Town was funding this but obviously that was a grant. We have to have some out-of-pocket money – in other words, you pay first and then you submit that and you get some of the money back. And, that was the case for that year. We had expended the money to pay the costs of the engineering fees. The breakdown of that was Becker Morgan Group: Engineering was \$54,505.73; DNREC, the Division of Sewer and Water Conservation: \$259; Ten Bears Environmental Consulting: \$4,400.81; and miscellaneous advertising and posting needed to done with the rails-to-trails project was \$1,267. Thus far, we have received a \$25,000 reimbursement from the state of Delaware as a grant for costs we have incurred so far for this project. These funds were deposited on February 29, 2008. This money was received as separate funds than those allotted by the DelDOT award which we received for the grant. We have also applied for an additional \$50,000 which has been earmarked for us by the state of Delaware. These funds will not be distributed until we actually incur the costs and submit our receipts. These funds have been granted by the Delaware Land and Water Conservation and Trust Fund Grant Program. The total amount DelDOT has agreed to award for this project is \$365,000. As you know, this project has been awarded to Mike Davidson Excavating. The project however is currently on hold pending approval from Governor's Office. Several people ask what is happening with rails-to-trails? It is pending appeal from the Governor's Office to solicit an attorney in Washington, DC to handle the abandonment process. The Abandonment Process is a specific application process that has to be filed with the federal government to remove those tracks because that is their area of expertise. That is the hold up right now. I understand from talking with Stephanie that the application form itself is quite lengthy and there is a lot of work involved. So if you looked at the audit report, it would reflect that we incurred \$60,000 but those monies will be coming back to us later.

Robert Vogel: 405 Union. First, I would like to say welcome back to our Vice Mayor, Leah Betts, who was not with us last month as well as Mr. Noble Prettyman. Second of all, I would like to commend our Mayor on the election and also Joanie Martin-Brown and Ronda Abraham. I think the Town of Milton has spoke and they spoke very loudly that we are very pleased with this administration and what you are doing and look forward to the next two years working with you. Thank you.

Mr. Whalen: Last fall, Bill Pepper, who used to grace this Council as Councilman and Mayor for a short while, bought a 1921 Ford car. which is actually the year of his birth as well. That old car has some real significance. If he had spent an equal amount of money or ten times that amount of money on a knock-off of a 1921 modern version, it would not be the same to him and it would not be the same to anybody that knows Bill Pepper. I think any proposal to rebuild an historic house within the historic district or anyplace really – to rebuild and to have a knock-off of what was an original historic structure would be demeaning to that historic structure. I am dealing with 207 Union Street.

Barbara Barsky-Carrow: 224 Chandler Street. I am representing the Milton Community Foundation. I am one of the co-chairs for the Antiques in the Park in Milton on Friday, May 23, 2008 event. The other co-chair is Judy Howard, who is present here with her husband, Bob Howard. We are here to tell you a little bit about the event and ask for the community's participation. The event will be held the night before the Horseshoe Crab Festival. It is entitled Antiques in the Park. From 4 to 7 p.m., we are going to have appraisals. We are limiting three items per person and \$7 per item. From 4 to 8 p.m., we will have a silent auction. From 7 to 9 p.m., we are going to have a live auction. Also, that evening we are going to have live blue grass music and refreshments. However, unlike last year, where we had an auctioneer who brought items for the auction, this year we are asking the cooperation of the community to help us. We are asking and soliciting items for the live auction. Please call us and we will gladly come and pick the items up. There are additional sheets out in the lobby for you to pick up about the event. We will be passing these out in next month's meeting. We are asking the community for their cooperation. Thank you.

8. Roll Call – Mayor Post

C Martin-Brown	here
C Duby	here
C Hudson	here
C. Prettyman	here
C Abraham	here
C Betts	here
Mayor Post	here

9. Additions or Corrections to the Agenda

Councilwoman Betts: I would like to amend #13 to include an oral report instead of a written report on Streets, Sidewalks and Lighting. I would include the Economic Development Report also as being oral.

Councilwoman Abraham: I need to make a brief oral water report.

???? Councilwoman Hudson: If that is allowed, I want to do a quick oral report from the Economic Development Committee.

Mayor Post: Do we have second at this point?

Councilman Prettyman: I will second it.

Mayor Post: We have a motion and a second. Any questions to that motion? [No question.] All in favor, say I. Motion carried.

10. Approval of Agenda as Amended.

Councilman Prettyman: I make a motion to accept the agenda as amended.

Councilwoman Abraham: I second.

Mayor Post: Any questions? [No questions] All is favor, say I. Motion carried.

11. Presentation of Minutes: February 21, 2008 and March 3, 2008

Councilman Prettyman: I make a motion to accept the February 21, 2008 and the March 3, 2008 as written.

Councilwoman Martin-Brown: I have one minor correction. Sorry but it is humorous as well as needs correcting. On Page 5, of Monday, March 3, 2008 minutes, Councilwoman Martin-Brown asked about the Town filing an “amigos” and the word is “amicus”.

Councilman Prettyman: I amend my motion to accept the minutes as amended.

Councilwoman Martin-Brown: Second.

Mayor Post: Any questions? [No questions.] All in favor, say I. Motion carried. We will now move into the oral reports. We will start with Streets and Sidewalks.

Councilwoman Betts: Look on the back of the police report, there is the status of the street lights. Also, #2, George and I have been in contact with George Short who is in charge of the residence for the Town’s major repairs of the sidewalks. He has informed us he was calling a meeting with the residents and the Town is providing the plate. The third thing, I would like to introduce Mr. Mazza from the Delaware Power & Light to give us a lighting report survey of the Town. I thank you for coming tonight.

Ben Mazza: I am a field representative of Hall of Fame Lighting. My lighting is with Delmarva Power and Delaware Cooperative. My role with them is to do all surveys and analysis and lighting designs for municipalities in the Delmarva Peninsula. Recently, Mr. Dickerson and the Department of Public Works asked me to do surveys for the existing lighting conditions in the Town of Milton. Those areas cover from Union Street to from Front to Bay, Federal Street from Front to Mulberry, and on Mulberry, from Front to Ellendale, which is DE Rt. 16. I have also covered Behringer, parts of Chandler and Shipbuilders Village. If anybody in the Town Council or the public would like to comment or question me on any types of lighting or light levels, I can briefly go over each one. The short version is that Union Street and Federal Street meet the specific lighting codes currently now. Structurally, the lighting is fine; your light levels are good. Whereas

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Mulberry, there are certain areas past Wagamon's Pond that sort of drops off towards Ellendale. Although the curbs and sidewalks are fine at certain eye levels, if a new development occurred, you would have to upgrade some of your lighting. Finally, your energy as far as the light types you have there – new newer ones – are definitely more efficient than some of the previous lighting. Although Delmarva will be changing out all mercury vapor within the next year from 2008 to 2009 because the bulb types are no longer going to be manufactured and that was part of the Energy Act of 2000 the President and Congress signed. All mercury vapor lights will disappear.

Mayor Post: When we met, I believe part of the survey included an auditing of those particular lights we had. Were you involved in that also?

Ben Mazza: Yes.

Mayor Post: Is that audit complete yet?

Ben Mazza: Yes.

George Dickerson: From some citizens, the question has been that there were grant monies given at one time perhaps for some legislators when these new lights – the Grandell style – were put in. You have those results now and I believe you are working with Scott Hoffman from Cabe Associates with regards to those. Is the lighting the type of light emitted as far as the bulb, will that be changing as a recommendation in your surveying at the conclusion that will change that? The question is if the Town is getting what it has paid for as a result of doing that survey; has that conclusion been reached?

Ben Mazza: Yes, most of the lighting in the business district and in the historical areas – in other words, you are not being overcharged. You are getting exactly what you have and it reflects within your monthly utility bill.

George Dickerson: Have you submitted those reports to Scott Hoffman at Cabe?

Ben Mazza: Yes, he has the survey and the drawing with the lighting analysis included.

????Councilwoman Martin-Brown: You said you have done a survey of Shipbuilders?

Ben Mazza: Yes, all of Shipbuilders Village

???? Councilwoman Martin-Brown: We have a number of citizens who said they considered the lights to be rather dim in some areas of Shipbuilders. Is there any way you could have put brighter lights in there?

Ben Mazza: In Shipbuilders Village, what is dim is the optics. You are getting the energy there and you are getting the bulb out but the polycarbonate lenses – over time with the heat and ultraviolet rays – degrade. Even though you are pumping the same amount of energy up pole, it is just that the light out part starts to diminish over time.

???? Councilwoman Martin-Brown: Can that be corrected?

Ben Mazza: You would have to change essentially the lens or change the fixture head itself.

???? Councilwoman Martin-Brown: Who is responsible for that expense?

Ben Mazza: That would be Delmarva's responsibility.

???? Councilwoman Martin-Brown: How quickly can you do that?

Ben Mazza: They can do that technically within 21 working days. But it is up to the residents to notify the Power.

???? Councilwoman Martin-Brown: Can you be considered notified tonight?

Ben Mazza: Yes, I have contact with the Millsboro office and I can ...

???? Councilwoman Martin-Brown: This has been an ongoing problem and concern. For the last year, I have been on the Emergency Preparedness Committee and I really appreciate that.

Ben Mazza: Yes, if you looked at Shipbuilders versus what is on the new ones on Union Street, they have the same amount of energy and they are the same wattage but the difference is you are getting one volt in and one watt out. You are not getting that at Shipbuilders.

???? Councilwoman Martin-Brown: Thank you.

Councilwoman Betts: I thought that would be reflected in the survey of the report; what lights are dimmer than others.

Ben Mazza: It is reflected in the points. On the drawing, you can see where the lower points – other streets have lower light levels versus other streets.

Councilwoman Betts: Will that be shown on the survey report?

Ben Mazza: Yes. Shipbuilders is – the spacing is fine on it – it is just that...

Councilwoman Betts: But when we get the report from Mr. Kerr, that will be shown?

Ben Mazza: Yes, Scott has that now. Yes. Every street has a name and the actual existing light values there now.

Councilwoman Betts: We could check that to see which ones we want changed?

Ben Mazza: Yes. I can meet with the Town or the Historic Committee and go over each street.

Councilwoman Betts: We appreciate that.

Mayor Post: Shipbuilders. You are saying that the spacing the lights is adequate?

Ben Mazza: Yes, those are about 14-ft. poles, I believe.

Mayor Post: I am talking about distance between; I am not talking about height but from one pole to the next?

Ben Mazza: They are probably about 150 feet apart. There are two per street. The light levels drop off but for the type of density and the vehicular and pedestrian, if you had a better fixture, the amp would be up. If you were to add one more, that would be a big difference.

Councilwoman Betts: We need some coming in Shipbuilders.

Ben Mazza: Right.

Councilwoman Betts: Did you include that in your survey?

Ben Mazza: Yes, that is the farthest actually.

Mayor Post: Are you doing the survey to make recommendations or are you going to say where they need to be? That entrance has zero and there are three blocks.

Ben Mazza: Mayor, my first was just to document what is existing out there. What the energy is and what the fixture locations are and what the actual light values are. Three or four of the major thoroughfares are good. Certain secondary streets could use some ...

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Mayor Post: At that main entrance area, they need several.

Ben Mazza: As development occurs, whether the Historical Commission has an approved standard -- those are some of the issues.

Councilwoman Betts: I thought we also asked to check if we needed more lighting on the Main Street?

Ben Mazza: Downtown, you would need code.

Mayor Post: The Economic Oral Report

Councilwoman Betts: Very briefly, the Main Street Program had their National Main Street conference in Philadelphia on March 31 to April 2. I am pleased to report to Council and the Town that four of our citizens – Ellen Passman, Alexandra Donan, Bob Blaney and Mark Quigley all went up to the conference and spent three or four days at their own expense to bring that information back to the Town. I wanted that to be in the record.

Mayor Post: Then oral report for Water.

Councilwoman Abraham: The Water Committee has met for past several months and felt the Water Committee could best be utilized as an appeal process for handling bill discrepancies. The Town seems to handle a considerable amount of bill discrepancies and most complaints stem from property owners receiving excessively high bills. Many times issues don't get to the attention of the committee until we are well into our second and sometimes our third quarters. With leaks, broken meters – it often times a hidden leak – that may cause your next quarter to be slightly higher. You pay the bill saying that you used it and the next bill may be excessively higher. Then, you realize you have a problem. The committee wants to come up with a policy procedure to handle these types of complaints. In the Council mail this week, I procedures and hopefully a policy that the Council can look at between now and our April 17 meeting to possibly approve for the Town to follow in handling their water discrepancies. Can we post this on the web for the citizens to view?

Mayor Post: As a draft document, yes.

Councilwoman Abraham: I would like to have that done, please.

Councilwoman Hudson: On the third Tuesday of this month, the Emergency Preparedness Committee met. I related to the members the Council had approved \$1,600 for the purchase of radios so that each of the leaders in the different sections of the Town would be able to have a radio. I also talked with the Chief and he has \$4,000 from DEMA to go towards the purchase of a repeater to go on top of the water tower. We are going to ask Mr. Brady if he will look into the company that will provide the repeater. That company may put an antenna on top of the tower if that would be legal and if we could do that. On the 4th Tuesday, Emergency Preparedness Committee met and we had Henry Poole from the Delaware Forest Service and Deanna Duby, who is the Chairman of the Parks and Recreation Committee and together our committees are trying to get a \$10,000 grant from the Delaware Forest Service for trees in the park. If you have been down park, you can see that it has been denuded; a lot of trees have been removed. Deanna has put a lot of effort into this already and hopefully we will be able to get the grant. Of course, that means we will have to get commitment from the Town to match that \$10,000 so it is in progress. Thank you very much.

12. Approval of Minutes by Council

Mayor Post: Planning and Zoning in written report.

Councilman Prettyman: I make a motion we accept the Planning and Zoning written report.

Councilwoman Abraham: Second.

Mayor Post: We have a motion and a second. Any questions? [No questions.] All in favor, say I. Motion carried. Now, we have code enforcement report.

Councilwoman Abraham: Motion to approve the March 2008 report.

Councilwoman Martin-Brown: Second.

Mayor Post: We have a motion and a second. Motion carried. Now, the Board of Adjustments Report.

Councilman Prettyman: I make a motion to accept the Board of Adjustments report of March 25, 2008.

Councilwoman Abraham: Second.

Mayor Post: We have a motion and a second. All in favor, say I. Motion carried.

13. Approval of Written Committee Reports

Mayor Post: Milton Development Corporation Report.

Councilwoman Abraham: Motion to accept as written.

Councilman Prettyman: Second.

Mayor Post: A motion and a second. All in favor, say I. Motion carried. Now, Parks and Recreation.

Councilman Prettyman: I make a motion to accept the Parks and Recreation Committee report of April 7, 2008.

Councilwoman Abraham: Second.

Mayor Post: A motion and a second. All in favor, say I. Motion carried. Maintenance Report.

Councilman Prettyman: I make a motion that we accept the Town of Milton Monthly Maintenance Report for March 2008.

Councilwoman Abraham: Second.

Mayor Post: A motion and a second. All in favor, say I. Motion carried. We have Police Report.

Councilman Prettyman: I make a motion we accept the Police Report from February 21 to March 20, 2008.

Mayor Post: A motion and a second. Any questions? [No questions.] All in favor, say I. Motion carried.

14. Town Manager Report

George Dickerson: It has been a few months ago Councilwoman Hudson wrote me letter regarding someone in the Town of Milton in the Neighborhood Watch who remembered there may have been a grant for as much as perhaps \$25,000 at some time in the past. We found it but it was not for a GPS. I will give you a copy of the documentation. The grant that was received was a grant that made funds available from the State Planning Coordination and it was for a GIS system. I have all the background information. It was very specific about what could be purchased with it. The former mayor signed that in November of 2004. The complaint report from January through March to date, we have handled 54 complaints this year. We instituted this last year and it was very successful for us in tracking those complaints that come into Town Hall as to who the complainant is, what the issue is, what department needs to take a look at it and get back to whom to disperse that information or get answers to whatever the complaint may be depending where it has filtered through – Public Works or whatever. That is working very well. I am pleased to report that Stephanie and I met with Commerce Insurance for the renewal coming up on all our insurance coverages. This includes liability coverage – all lines – property, crime, auto,

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equipment breakdown, public official's liability, law enforcement liability, employee benefit liability, employee practices, and the umbrella of workman's compensation. Obviously, workman's compensation insurance is quite high. Last year, we saved approximately \$20,000 and this year with our premiums we were able to increase our liability from two million dollars to three million dollars across all carriers, all lines, and yet had a net savings of over \$7,000 in our last years expiring premium. That is wonderful news. Workplace safety credit, we got 16% savings as a result of that. The bids advertised for the renovations for Town Hall as a result of the Fire Marshal complaint had been open. This was a line item in the budget for this fiscal year which was \$100,000. Council voted on removing \$15,000 from that last month, taking the figure down to \$85,000. The bids for the renovation came in at \$160,000, \$150,000, and \$155,000 so obviously we will have to do this in phases. The first phase cost is down to approximately \$75,000 to \$85,000 to be within the budget amount to do that. This is the stairs coming down from the upper story to the ground floor on the exterior of the building plus the modifications needed to do that. French and Ryan are reworking the plans. I spoke with the Fire Marshal today as well as to Pat Ryan. He is re-modifying the plans to fit within our budget. Pat Ryan will be getting the drawings back to me. The bids will be redone to live within the budget of the \$85,000. We received a nice thank you card from our Vice Mayor Betts for her flowers she received. I have information on our water tower. Each year, there is maintenance performed on our water tower. I have a report from Allen on this. Corrosion Control Company does our annual maintenance for our water towers. We have two. We have a 75,000 gallon tank in Shipbuilders and a 150,000 gallon one on Chandler Street. They will be doing a visual inspection on both of those towers. The 150,000-gallon tower will be repainted – that is the standing large center pipe because we had some blistering. Also, they will be doing the re-lettering saying Milton on the tank. We will be draining the 75,000-gallon tank for pressure washing inside and outside. They will be repainting both the inside and the outside. It is expected to be down for approximately two weeks. You should not see any significant water pressure changes. We have made other provisions. If we had to, we could go back to have them do a week on the outside and one week on the inside. They assured us the way they do this, your homes should not see any reduced pressure or flow problems. If you do, we will work to correct. They will be doing this work within the next two weeks. Also, a copy of the New Charter as well as the map and attachments will be distributed tonight. The charter was passed by the General Assembly and signed by the Governor on March 26. It is already punched to replace in the code books. See Stephanie for copies. It is also on the web site but the maps are not included yet.

Councilwoman DUBY: You might want to share that for the first time the Charter includes a section on ethics. There is a form to be filled in by not only council members but all members of the public who are serving on committees.

George Dickerson: Yes, and thank you for mentioning it. Most recently, in a meeting with Robin Davis and Heritage Creek Group we were advised that Mr. Carey was no longer a partner in that. That brought a question to my attention with regards to the transfer taxes for when the property was transferred. My question was had they actually paid the transfer tax to the Town. We made a call to a guy who is the Recorder of Deeds in Sussex County and sure enough Sussex County had received our money for that and that check is forthcoming in the amount of \$92,000. Mr. Brady was quite helpful with that. Also, I wanted to remind Council that last month Debbie Pfiel made a presentation on 13 different scenarios on properties and what the processes are. In other words, how cumbersome our P&Z ordinances are, how can we speed it up and how can we assist businesses, what is the process and how can we shorten those. After the presentation, the issue was still on the table and there was no action taken. What do you want us to do and what specific action do you want me to take with regards to that? We are having another meeting on April 17 so I would appreciate some direction by then so we can move forward with whatever Council chooses to do. To move it forward, you need to review and give me a sense of what you want to do. If you want Robin Davis to work on a first draft, that is fine.

Councilwoman Betts: I would like to see that go forward.

John Brady: The only decision tonight is to place it on the agenda under New Business for April 17 because there has not been notice to the public that that item would be discussed tonight.

Mayor Post: The Committee Appointments will also be moved to April 17 because the Charter has passed and we need to get the forms referred to in the Charter completed. On April 17, a committee can be appointed without notice on the agenda because the Mayor has the authority to appoint committees. Debbie Pfiel referenced the need for a committee to start this process. We need to address this issue and take on some things immediately because the process is not working. We will address it now and fix the process. That committee will be established.

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George Dickerson: I talked earlier today with Debbie from URS. One of the things discussed was the policies and procedures for P&Z. At the same time training with P&Z was discussed. Council members would want to attend that only as observers and not interact. That is one of the questions we had. Debbie has some comments.

Debbie Pfiel: Since the appointments are not being made tonight, there is no reason to have a P&Z meeting for training. We don't have any applicants for the April meeting. We were going to do training on policies and procedures in Executive Session with Mr. Brady. We have already started working on the Power Point and that is when we asked Mr. Dickerson if the Council could be invited as spectators to look at the policies and procedures with the Planning Commission. Now, as the consultants, we would recommend we wait on the training until the appointments are in place. This postpones it until a May time frame.

Mayor Post: In the meantime, I would like to see the process. I think the way to correct the process is to not silo the process. Therefore, I don't care how we do it as long as it is legal. We can do it is a workshop but we need to bring those committees all together because we need to be thinking about the process and policies collectively. I am also looking at this with the issues we are having with the ordinances. There are issues either from interpretation or some simple verbiage. There are some serious issues we need to address especially for businesses getting into these establishments at a much easier ability than our ordinances permit. We need to look at the big picture. At the last meeting, you recommended the chairs for a committee. Even if it is the chairs and some community people and some intertwining of some of the business establishments. You will be hearing about the business establishments that have major problems and I will welcome them onto this committee to help fix the problems they have encountered. This is going to be one of the most issues and we all have to work together. We all have our own jobs to do but we need to get this in sync now.

Debbie Pfiel: You raised some good points. Some of the immediate ones are your change of uses. There are quite a few of those that are trying to come forward. Basically the regulations that are halting that endeavor are costly and timely. When you talk about procedures and putting everybody together in big room, there are a lot of different procedures with LPD and the site plans and subdivisions, etc. We are recommending that the training we are recommending with the Planning Commission is immediately for current codes to be able to follow what is in place now. That is very basic training in the code site plan process procedures. The immediate things we are looking at is the change of uses which is your businesses or any use from one to another that we felt had the 25 steps or the 23 steps. When you talk about committee members, remember that you have so many different committee members. You have several boards in this municipality as well. I understand that is the direction of the Council but when you have 50 or 20 people on a board, remember that it takes a longer time for the education process as well. It will not be an overnight quick fix, but I agree with you the sooner you start, the better it would be for your municipality.

Councilwoman Betts: I would like to follow up on something the Mayor said. When P&Z is acting or being trained in existing ordinances and processes – in the first circumstance with the new Charter, there is a change of role in the P&Z germane to the annexation process.

Debbie Pfiel: Specifically to the annexation, yes.

Councilwoman Betts: You can't train on that except on the new premises of the new Charter. Secondly, a lot of the existing ordinances that people would be trained in are exactly those ordinances that are creating havoc in system. There is little point in instructing people on what exists because the energy should be used – even by P&Z working unilaterally – which I don't suggest they do – on what would improve those ordinances so they become a source using their expertise for the changes that they see needing to be made from their perspective. That means that once they see what they think ought to be changed, it ought to be shared with the members of the Council in a dynamic where Council and P&Z and anybody else can speak to these specificities and clear the decks by getting consensus quickly. Training people on what is broken, doesn't make any sense to me. Maybe that is not what you are implying.

Debbie Pfiel: Not at all.

Councilwoman Betts: I think we need to be together first so you get feedback from all of us collectively as to what our frustrations are with specific ordinances.

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Debbie Pfiel: Correct. We tried to do that last month. But my thing to the Council is “Your shop hasn’t stopped. There are people going through this now.”

Councilwoman Betts: We understand that. We have the 17th coming up when the Mayor has proposed to have a committee by the 17th and all these other committees. There is a start-up point that you can look forward to.

Debbie Pfiel: The reason we took advantage of the April Planning Commission is because in training policies and procedures, we are bringing up some ethics examples because you have some new members who have never had training. We can maybe look at some pending potential litigation because that is always good training at the beginning. We discussed this with the Mayor and Town Manager and Mr. Brady and Mr. Kerr and me. Since we didn’t have an application on the agenda, we thought we would take advantage the processes they have in place right now because the Planning Commission is still dealing with this while we change our regulations. What we wanted to do was just train them on their parameters of what is within their code. They can continue to do their job as requested by the Town because that is not going to stop until the ordinances are changed. We don’t the scope of that project or how long it will take. We do have some projects in the works that do need better guidance.

Mayor Post: Also what is in the realm of a Planning Commissioner and what is not in the realm of P&Z. When we get this committee together we will need to sit down because I question the interpretation of what is creating these issues. I looked at one remedy I am going to propose and I think would change things very easily. I think it all stems from what I think is a permitted use. We have to encourage businesses to come to this Town. We don’t want to discourage people and right now I feel we are discouraging them. It is bad enough they are fighting exorbitant rents but I think we need to work out a way people can open a business rather easily if it is in an already established building within the Town Center. These things need to be addressed in a workshop. Tonight, I would rather not address these in depth. I understand the reason you want to do your procedures with P&Z but I would recommend doing that with Board of Adjustments just to give them a general idea of the operations of that board itself.

Debbie Pfiel: Correct.

John Brady: You can set a workshop for April 17 for Planning and Zoning, Board of Adjustment, Historic Preservation and the Council by putting them all in the room and talking about procedures and interactions.

Debbie Pfiel: However, they are different boards. I think it is great that Council will be aware of what the boards parameters are because you have some new council people but the Planning Commission does a total different role and has a total different training than the Board of Adjustment. The Board of Adjustment, as you know, it goes through a court system after that. I think ethics, integrity and professionalism and such things in the general training you sometimes do is great for everybody. But the Board of Adjustment has specific training on hardship and practical difficulty. The Planning Commission has specific training within their parameters. Council has specific training on appeals and subdivision agreements and annexation agreements. We were looking for the window of opportunity for the Planning Commission because they did not have anything on the agenda yet. Then getting into the Board of Adjustment and then going on further from there. It would be the same presentations to everybody with the exception of specific roles. However you want us to proceed.

Mayor Post: That is fine with that overall operational process.

George Dickerson: I have one final comment I forgot. Councilwoman Hudson, with regard to the antenna for the repeater project on the top of the water tower, there are a couple of issues that concern me. My experience at another town was that normally a vendor would be more than willing to put up an antenna to be used in a repeater system. One, is it going to be used for anything else by that vendor. Being specific to them, do they expect they will put an antenna up and use it for something other than the four radios that you would have in your committee? Then, normally, there is a rental agreement. The rental agreements usually go for a rental of about \$1,500 a month for a space on a water tower. The second issue is to make sure they carry insurance should there be a lightning strike or damage occur to those. I have some documents which are lease agreements for those spaces for the water towers. I am not saying anyone is trying to do anything underhanded; please I don’t mean that at all. We need to protect the Town from a lightning strike or damage that we would be responsible

for and have to take to our insurance or we allow it to be put up and it would be excluded from our own insurance coverage. I will get one of those agreements to you for your review so you can see what I am talking about.

Councilwoman Hudson: Okay, and also copies to the Chief because he is sponsoring this. Basically, he needs to be included in everything you have talked about.

George Dickerson: Okay.

15. Town Solicitor Report to include Review of Charter status at legislature.

John Brady: We have not been sued in the last month. We are working on settling the two outstanding lawsuits. I spent too much time on TV because we had some complaints received. The nature of those complaints was under personnel and that is one of the things not made public. The Attorney General's Office, The Department of Justice did their investigation. The investigation was relayed back to the Mayor and Council and those personnel were reinstated after no criminal activity was deemed to have been done. That is the process towns follow. When you have the top people in charge of the Police Department, you send it to the Department of Justice. I wish I could give you more specifics. Channel 16 tried to get it out of me and they failed. You are not going to get any more out of me either. Sorry, that is about as transparent as I can get. The ongoing investigation at Cannery Village is now at 14 months and growing. I still don't have a report back from the Attorney General's Office on that. I hope to get that back in my lifetime. The Charter, as the Town Manager indicated, the State Senate passed it in January, the House passed it with an amendment, the State Senate passed the amendment on March 19, the Governor signed it on March 26. They told us April 4. I guess they thought we would know it. It is not even on the web site that it is signed yet. I had to call the Governor's Office and they told me it was signed on March 26. At the time we prepared the agenda, I was going to say it was pending in the Governor's Office but things changed. The new Charter is on the web site. If anybody is considered or suggested for a member of a board or commission, pursuant to the new charter, they have to fill out the ethics form that is attached. It is Charter Amendment B. You can print it out off the website and just turn it in at no cost. It has half dozen questions to fill out and turn in.

Councilwoman Abraham: You mentioned the Charter passed with an amendment. Can we get a copy of what the amendment was and does it enumerate the things they changed or revised.

John Brady: The amendment they passed was the Town map would be attached and the Town could annually adopt a map. The map that was adopted was dated January 22, 2008 when it was prepared by Cabe Associates. The other amendment was the House Amendment. That is on Page 3 of the Charter. That says that "appearance of conflict must be disclosed to the State Public Integrity Commission or the Town of Milton Integrity Commission if such a commission exists within the town." I believe that will be an issue on the agenda later tonight. The Public Integrity Commission filed a letter with the State House protesting the Town Council from determining whether or not there was an ethics issue saying that state law controlled. The State House decided to put the Public Integrity Commission or a town integrity commission in the there. That was the change in the House.

Councilwoman Abraham: Okay. Those were the only amendments?

John Brady: Yes.

16. Written Reports from:

- a. Maintenance
- b. Code Enforcer
- c. Police –January 21 and February 20 Monthly reports

Mayor Post: These written reports were rolled into the report in 13 so we are now moving into old business.

17. Old Business:

- a. Final vote on possible placement of a six-month moratorium on demolitions within the Town of Milton.

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Mayor Post: Final vote on possible placement of a moratorium in the historic district in the town center zones.

John Brady: This would be Ordinance 2008-0002, an ordinance to enact a six-month moratorium on demolitions within the Town of Milton whereas it is desirable for the Town to review all ordinances referring to demolitions within the Town especially demolitions in the Historic Preservation District and Town Center and whereas it is expected for proper review to take six months from start to finish and whereas it is desirable that said review is done and no structure is demolished and there exists an application on file with the Town of Milton and whereas a temporary moratorium on demolitions within the Town of Milton that seem to be within the Town's public policy. Now, therefore, the Mayor and Town Council of the Town of Milton hereby enact the following: A moratorium on any demolition of structures within the Town of Milton limits is hereby imposed from April 7, 2008 until November 3, 2008. Purpose: A. A moratorium is hereby enacted upon the demolitions to be performed in the Town of Milton for the purpose of permitting a review of all ordinances referring to demolitions within the Town. B. Duration. The moratorium shall be imposed to and including November 3, 2008. During the time period, no applications except for those permitted in (C) below shall be accepted. (C) Exceptions: The following shall be exempted from the effects of this moratorium and the application for the demolition of structures within the Town of Milton received by the Town of Milton before March 3, 2008. D. Effective Date: This ordinance shall be effective upon enactment. E. Termination: This ordinance shall terminate on November 3, 2008 unless extended or appealed prior to that date. Section II. Severability. The provisions of the ordinance are severable and if any of its provisions or any sentence, clause or paragraph or the application thereof to any person, circumstance shall be held unconstitutional and in violation of the laws of the state of Delaware by any court of competent jurisdiction. The decision of such court shall not invalidate or impair any of the remaining provisions which can be given effect without the invalid provision or application. First Reading: March 3, 2008. Public Hearing: March 3, 2008. Enactment Date: [blank]. Mr. Mayor, that is a reading of the ordinance that has been proposed.

Mayor Post: Do we have a motion?

Councilman Prettyman: I make a motion that we accept Ordinance 2008-0002 to enact a six-month moratorium on demolition within the Town of Milton.

Councilwoman Martin-Brown: Second

Mayor Post: We a motion and a second on Ordinance 2008-0002. Any questions to the motion?

Councilwoman Duby: I don't have any questions. I just want to say again that I continue to believe this is overly broad. I think if what we are getting at is a moratorium on demolition of historic properties – that we do not want to lose because it is part of the heritage of the Town – then I think it should be phrased that way. I think there should be something in it that provides a process for exemptions other than just that you file before March 3. I think there are instances in Town where things that are not historic at all or where we want to do something new in the Town and we don't have the ability to get rid of property that is there. I think it ties our hands for six months. I am also concerned that this may go on for more than six months because the process of reviewing these ordinances may take longer. I simply would like to see some exemptions in it. I just want that on the record as I have said it before and I am saying it once again.

Mayor Post: There is a motion and a second made. Do you want to amend the ordinance? The Town Engineer has advised me that the marina filed an application today to demolish a structure at the marina.

John Brady: Based on what the Town Engineer is asking – he is asking for an exemption to change the date from March 3, 2008 to today which would be April 7, 2008. And, Councilperson Duby is asking for between D and E, a new E for an appeal procedure to go in that says the Town Council in an individual action may hear an exception to this by a majority vote and grant a demolition permit. Is that what your motion is?

Councilwoman Duby: That would pretty much accomplish it as an alternative. You could designate the kind of property you are talking about in terms of when it was built or whatever when talking about historic properties because that seems to be the thrust of what people want. It certainly would be what I would want. We don't want to destroy historic properties in this Town. But, I think, this is a sweeping thing that says we can't demolish anything in the entire Town for the length of this moratorium.

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Councilwoman Betts: I agree with Deanna Duby also that there should be an exception.

Councilwoman Martin-Brown: Mr. Brady, in the original moratorium there was a resolution adopted as I said before at an earlier meeting very, very similar to this with one exception. It said that there would be the possibility of an applicant appealing the moratorium by coming before the Town Council and having the Town Council vote explicitly to grant an exemption to that particular property. That was in the original moratorium as an appeal. This way it stays town-wide – which I think is very important. If you limit it to historic, you have got the overall potential of the moratorium preserving the Town but on the other hand a legitimate avenue for redress would be to apply before the Council. I think Councilwoman Duby’s language has – as Mr. Brady expressed it – we might add that one provision, “However, an appeal can be made before the Town Council and granted by simple majority vote.”

John Brady: The only concern I have is that when you look at doing this under a due process standard, it is an abuse of discretion by the Council if you pick and choose for any one over another and that could lead to litigation that you were favorable to one applicant and not favorable to another and that the playing field was not level.

???? Councilwoman Duby: Yes, and it concerns me to simply say that there is an appeal process and yet not give any criteria for what we will be looking at in granting an exemption if people come to us.

Mayor Post: What did you want to say, Deanna, could you state that one more time?

Councilwoman Duby: I didn’t state a specific language. Mr. Brady did.

Mayor Post: Mr. Brady, would you state it one more time?

John Brady: Well, I did not have any criteria.

Mayor Post: When Deanna spoke, you said that besides changing the date you read something off?

John Brady: I said you could change termination to F and put in a new paragraph E that says “An appeal procedure is hereby established where an applicant could by petition to the Town Council request an exemption to this moratorium which may be granted by Council by a majority vote.”

Councilwoman Martin-Brown: I would support that, Mr. Brady.

Mayor Post: Is that what you said?

Councilwoman Duby: Yes, that is what he said. My concern is that it doesn’t say the Council will base their decision on the following criteria – do you meet the following criteria – because if somebody is going to come with an appeal, they need to know on what criteria we are looking at.

John Brady: The other thing is that since you have a meeting on the 17th of this month, if you wish me to amend it further and put criteria in, you could defer this until the 17th and vote on it on the 17th.

Mayor Post: Can we change the start date?

John Brady: You can change the start date also.

Mayor Post: If we change the start date, can we change the end date also?

John Brady: The problem with the end date is because of leap year there have been some moratoriums that have ended the day before a Town Council meeting. Then the Town Council Meeting when it was going to consider an extension when someone filed or did something on that day they called that unintended consequences. I wanted to make sure that the moratorium extended to the Council meeting in November. If you give me a moment, I will check. Your November meeting

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date is November 3 and that is why the moratorium – you could extend it to November 10th and then you act on it anyway on November 3. You want to have motion to table this and have it added to the April 17th agenda. With the amendments that have been discussed, I will try to come up with some criteria to include in there for the Council to be able to decide.

Councilwoman Martin-Brown: Mr. Brady, is it necessary to have the criteria defined in this resolution? Can it not say that criteria for appeal will be developed within three weeks of the enactment of this resolution so that it goes forward because the chapeau stating that there is an appeal process should not have to be so specific to the criteria of that appeals process?

Councilman Prettyman: I feel that if you are going to the criteria of the appeal, it should be within the resolution that is set forth. It should be there instead of approving and then adding something. I don't that is fair to the resident or whoever may be coming. We need to put everything up front.

Councilwoman Martin-Brown: Should we have all the criteria then in the resolution by the 17th for Council action?

John Brady: Yes.

Councilwoman Martin-Brown: I have a two-part question: First of all, can we get it ahead of the 17th so we have a chance to review it. Secondly, if there will be an opportunity for amendment at the time we vote on the 17th or is that not possible? In other words, if you come up with five criteria, and one of us feels strongly that one of those five shouldn't be there or there should be a sixth, can we make those amendments the night of the 17th before we vote?

Mayor Post: No.

John Brady: I will come up with the criteria because it is preferable to have the criteria in. If you pass something without criteria, you are really asking a judge to overturn us because we have not told you exactly what we are going to test you on. It is double-secret probation from animal house. To the extent that you can amend the criteria that night – as you saw, we were looking at amending the date tonight, you can make some changes with adding. If you are not satisfied with the 17th, then you can send it to the May 5th meeting.

Councilwoman Martin-Brown: My concern, Mr. Mayor, is I feel Rome is burning and I very concerned we get this enacted as quickly as possible but respectful of what needs to be done between now and the 17th of April.

Mayor Post: I absolutely agree. I think it needs to be done by the 17th and voted and out of the way.

John Brady: I will have it to you by Friday.

Mayor Post: Now we need motion.

Councilman Prettyman: I need to make a motion to amend or defer ...

John Brady: You have motion and a second on the table, so you need to withdraw your first motion and make a second motion.

Councilman Prettyman: I withdraw my motion on Ordinance 2008-0002 to enact a six-month moratorium on demolition.

John Brady: Then withdraw the second.

Councilwoman Martin-Brown: I so withdraw, Mr. Brady. I move that we table a decision on this ordinance until our meeting on April 17th.

Councilwoman DUBY: I second.

Mayor Post: Any discussion on the motion? [No discussion.] All in favor, say I. Motion carried.

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- b. Final vote on Historic Preservation Ordinance Commission review of ordinances relating to the Historic District.

John Brady: Resolution to request Historic Preservation Ordinance Commission review the Historic Preservation District's ordinance regarding renovation/demolition. This was the subject of your public hearing tonight. The first reading was March 3. The resolution – the short version is “Be it resolved by the Town Council of the Town of Milton that the Historic Preservation Commission review the Historic Preservation District ordinances regarding renovation/demolition within the district for house safety and permit requirements.”

Councilwoman Martin-Brown: Weren't there some dates?

John Brady: Yes, I said the short reading. The long reading would have had the whereas clauses but I saved some time. The dates are “Review be completed by July 25th so the report in new ordinances necessary can be presented in the August 4, 2008 Town Council meeting and referred to Planning and Zoning for consideration at their meeting on August 19, 2008 and a Public Hearing on September 2, 2008 Town Council Meeting. Looking at this again, September 2, 2008 is a Tuesday but September 1st 2008 is Labor Day so the Town Council meeting will be the first Tuesday of that month. It is the correct date in this resolution.

Councilwoman Martin-Brown: I move we approve the resolution on Historic Preservation Commission reviewing ordinances relating to the Historic District.

Councilman Prettyman: I second it.

Mayor Post: Any discussion? [No discussion.] All in favor, say I. Motion carried.

- c. Rezoning of White property from R1/R3 zoning to R1/R3 zoning with an LPD (Large Parcel District) overlay and for preliminary approval of an LPD (Large Parcel District) master plan.

Mayor Post: Is anyone here to represent the applicant?

Donna Johnson: Good evening, my name is Donna Johnson. I am the realtor representing both the purchaser and the developer in this project. The developers have asked me to extend to you their apologies for not being here tonight but they had another engagement they could not get out of so I am here in their absence. I don't know how much help I can be in answering detailed questions but I will try to do the best I can.

Mayor Post: All right. As we know, we have had a lot of discussion on this. You had the recommended Conditions of Approval prepared by the Milton Planning and Zoning Commission that were referred over to us at the last meeting. It ended up that it did not get acted on that night; it got tabled. We have also had one workshop discussing this matter. I think the most important thing is to go by the document everyone has of the recommendations written up for approval by Planning and Zoning. I have made some notes on mine that I am going to start with and I hope some others will pick up on things that maybe I have overlooked. On Page 1. Number 4, I am recommending that we keep in that written approval the conditions. And, on Page 2, I recommend that Number 5 is removed because it is the same but one has more content than the other. I will be glad to read it out loud: Number 4 says: “Per DelDOT recommendation, Atlantic Avenue shall receive a 2-inch hot mix hot-laid bituminous concrete overlay from Union Street (Del. Rt. 5) to Country Road (Sussex Road 22A).” Number 5 says “Per DelDOT recommendation, Country Road shall receive a 2-inch hot mix hot-laid bituminous concrete overlay from Atlantic Avenue to Broadkill Road (Del. Rt. 16).” Since they are duplicate, I would think we would want to remove 5 and keep 4.

Councilwoman Abraham: One is talking about Atlantic Avenue and the other is talking about Country Road. Those are two different streets so they are not duplicate.

Mayor Post: But they are running right through each other.

Mayor Post: The one is running from Union to Country Road

Donna Johnson: Country Road is 22A and that is where it would stop. They are saying to Rt. 16 which would encompass 22A and come out to 16.

Councilwoman Abraham: One is coming up to Country Road and the other is Country Road out to 16. If you have only Number 4, it takes it up to Country Road. Then you have the stretch of Country Road from Atlantic to 16 that is not covered if you take out Number 5.

Mayor Post: All right. Now. Number 13, Building Permits may be issued by the Town of Milton for model home construction without the required bonding fees for public street and utility construction. It is understood that model homes shall not receive Certificates of Occupancy from the Town of Milton until required street and utility construction has been completed. Number one, I would like to see it stated 125% of the cost of improvements because that is what is stated in our ordinances but I would like to see it written in here for no confusion. Second of all, I would like to remove anywhere it says public street and utility construction because it is a lot more than just public utility and street construction that the developer is posting the bonds on. So, if you want to say 17-37, a through m; or if you want to list them all, I have no problem with that. But it is certainly more than street utilities because it is grading, it is signs, it is numerous things. We have to get very clear on this so that everybody is on the same page. So, what I would call as utilities and streets, it is a lot more defined in the ordinances.

Donna Johnson: May I address that one about Chapter 17 and, Mr. Brady, if you may correct me if I am wrong. Chapter 17 is a subdivision which is a process that would come after the master plan. The only concern I have with taking certain sections of out of the subdivision that they are applicable to during this document and not all of them is the applicant is subject to all code regulations in Chapter 17 whether it is the bond or whether it is the process or the checklist or the ...

Mayor Post: But in this verbiage, you are specifically referring to the bond. Then, I would recommend that you do not refer that the bond is only being placed for public street and utilities because it includes streets, street signs, sidewalks, curbs, street lighting, shade trees, buffer yard plantings, grading fill-top soil, culverts and storm water, storm water systems -- sanitary sewers should be out of this -- water mains, and all utilities such as gas, electric, etc. I am saying the verbiage is very restrictive there and I think from now on we need to make it very clear in these documents what we are expecting somebody to adhere to so there is no misrepresentation. I don't care if you say Section C or per our ordinances, then remove the wording public streets and utilities because I am saying that bond needs to be issued for more than just public utilities and streets; and that is fine.

Donna Johnson: So, you recommend removing "for public and utility construction" because of the bonding fees. The goal there is allow model homes without occupancy.

Mayor Post: I understand that. What you are trying to do is to wait for the bonding to be placed until the model home is built. That is fine and I don't have a problem with that.

Donna Johnson: On both sentences, take off "until required street utility construction ..."

Mayor Post: Or bond will be placed in accordance to whatever the code is in the ordinance or whatever. I just want it to be more clear because otherwise you would think they would be bonding their streets and utilities. It is more of a bond than just that.

Councilwoman Martin-Brown: You could say "receive Certificates of Occupancy from the Town of Milton until all code requirements are met."

Mayor Post: That is fine too. I just don't want them to think that they are only limited to placing that bond.

Donna Johnson: The only reason I stepped up is because when you cite one section of the code and there are subject to fifty thousand others.

Mayor Post: That is fine. Also, I want the 125% spelled out in there. In 15, I read it and it states in there that this is how it should be written. It just says all streets are dedicated to the Town of Milton upon completion of construction and should be built to Milton's standards for perpetual maintenance by the Town of Milton. But, what I read, it states what should really be said on that document is "Streets constructed within the limits of the right-of-way dedicated to the public use as shown on this plan are maintained by the Town of Milton. Following the completion of the streets by the developer to the satisfaction of the Town, the Town assumes no maintenance responsibilities within the dedicated streets right-of-way until the Town has accepted the streets." It tells you this is how the verbiage should specifically be in the ordinance of how it should read on the document. I would like it to reflect that again for confusion of when. Now, I have another issue and I don't know whether you can help me with this one or not. Since we have infamous problems in other developments and I am trying to make sure we can get through this and not have problems in this development. The fact of can we put in something in this document that would say the streets must be completed by such and such of last occupancy permit issued simply because we are looking out at Shipbuilders of how many years out now and the final code is not on it. Now, they are saying they want to build a couple of more houses and the next thing you know they want to build a couple more and it could be strung out now to build the six houses for the next 15 years. I would rather see that when the last occupancy permit is issued – an I want to be fair – but one year out or something that would guarantee us that they have x amount of time to get that finished and get out of Dodge. Donna, I am sure Debbie can help.

Donna Johnson: I don't think that would be a problem and I don't think it is an unfair request at all.

Mayor Post: They are just small tweaking issues that I see are on some of these things. It is the same thing with Number 17. It could either be answered in 18 or 17. It might be easier to answer it in 18. Instead of reading all of 17, it just talks about who is responsible for the street lighting. Reading the minutes of Planning and Zoning, my understanding is that the developers agreed or stated that the Homeowners Associations would be maintaining both the alleys and they would be maintaining the lights in the alleys. So, I would like to see in 18 open-space walkways because I do not know what open-space walkways encounter; and alleyways should be adequately illuminated with the Grandville-style lighted **dome?** and maintained by the Homeowners Association allowing for pedestrian safety. It only had open-spaced walkways and that could be interpreted ... I would like it to put the word alleyways in as well because it is going to be their responsibility to maintain those – the Homeowners Association. And somewhere I added in that the alley needs to be added in because it is the responsibility of the Homeowners Association to maintain the alley. The Town does not maintain the alley.

Donna Johnson: I thought they were doing a different type of lighting for the alleyways if I recall correctly. They are affixed to the garages.

Mayor Post: I just think the key is they need to understand they are going to be responsible for alleyway lighting. I don't care how they do it.

Donna Johnson: Right.

Councilwoman Martin-Brown: But then you don't add it to 18.

Debbie Pfiel: It is individual property owners.

Mayor Post: Can you add that into 17 as a separate sentence or as a separate item itself?

Debbie Pfiel: I am going to ask for your interpretation, Mr. Brady, and I don't want to put on you the spot. We are moving towards a subdivision agreement. Am I correct in saying that right now when we haven't gone through the process of a subdivision agreement? When you get very specific, this is a master plan and things could change that are considered part of the subdivision process – minor or major. For example, on the alleyways, if they are proposing the garage lighting, it would not be an HOA; it would be individual property owners. Therefore, this 17 and 18 would stand as written basically. Mr. Brady, I am going to flat out ask you, "Do you feel we are moving into a subdivision agreement at this time based on previous documents that have been given to the Town in these LPD cases?"

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Mayor Post: I don't understand that because this is adding to what is already in here. I am confused on how that could be interpreted that way.

John Brady: The way, I believe, the planner is interpreting it is consistent with my interpretation. When you approve for as you have been requested tonight to prove this is a large parcel development master plan, that the subdivision agreements and that process goes into the specifics and this goes into the general and it may be modified by the subdivision plan. The issue right now is what Ms. Pfiel brought up last month. In order to get from a to z on a large parcel development, we first bring them in as an R1/R3. Then it comes into large parcel development and then it comes into further reviews for subdivisions – preliminary and final. By the time the whole process is done, it is taking 18 to 24 months. Your concerns are valid, Mr. Mayor, but the way our ordinance is written now, the specifics you want to put in would be inappropriate for what has been done in the past for large parcel development master plans.

Mayor Post: Has it been done correctly in the past? Every issue we are dealing with we are dealing with in every development? I will tell you one thing, it had better be right this time. You are saying we can do this at a next level? Maybe you will agree on this; this is a minor thing. It quotes in here – I don't know how many because I crossed through it – but 630 street trees when, Mr. Dyer, someone said in the minutes there would be 600 trees in the development with 200 provided to the Town of Milton. I think it should state it that way and I think it should say an additional 200 trees coming to Milton.

Debbie Pfiel: But at a later date.

Mayor Post: So then why are we even addressing 600 and some street trees in here?

Debbie Pfiel: I am not arguing but this is a most difficult one. You have 3-inch binder on a preliminary site plan. – or a preliminary subdivision plan – that wasn't supposed to be submitted a preliminary subdivision. However, the Planning Commission did request above-and-beyond requirements from this applicant. So, the applicant did bring back a lot more information to try to address the concerns of the Planning Commission. When it came in front of Council and when your consultants reviewed it, all the information said preliminary subdivision plan. They probably have met – I haven't done a complete review – but they have probably met a lot of the requirements for the next step. They probably frontloaded a lot of information in a cart-before-the-horse theory. However, that makes you look at it and that is difficult.

Councilwoman Abraham: What concerns me is that if we come back at a later date and say we want to change this, that someone – whether it is our lawyer or our consultant or the applicant – will say but you already approved that when you approved the LPD.

Mayor Post: And we have heard that many times in our life.

Councilwoman Abraham: Whether it was supposed to be in there or not is the issue right now. But, if we approve it even if it is not supposed to be in here, then they come back later when we want to change it and say oh but you have already it. That is a bind that I – and I doubt that my colleagues do either – want to get caught in.

Debbie Pfiel: I agree and I think when you get very site specific, you tie the Council's hands and you tie the developer's hands and they haven't even gone to the outside agencies that will trump a review process. So, I think when you get site specific like for example the Planning Commission – we gave the next steps for the Planning Commission site specific – I think that ties your hands. If we say 630 trees and during the Preliminary Subdivision Plan it becomes 800, is anybody really going to be upset that it gets better? Do you see what I am saying?

Mayor Post: It says at least so they could put 2,000 trees in if they wanted.

Debbie Pfiel: Right, so you are getting the minimal of what you want. The only reason I am asking this with Mr. Brady is because you do have a subdivision regulation that has public hearings and that has a checklist of the items that come up in the Planning Commission's role in that and they are not eligible to submit for that at this time.

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Councilman Prettyman: I think everybody is just jumping all over the place here. We are only asked for the R1/R3 LPD to be accepted. We are jumping at something that is going to be a year and maybe even two years down the road. We need to make a decision whether we are going to accept this portion of it. That is the only portion that we should be looking at this time. I realize we were given quite a bit of information and may have gone somewhat off. I think we just need to look at this LPD master plan and make a decision on it. Then when they come back with the next step, then you go from there. You are jumping almost five years down the road and we cannot even get to solve the R1/R3.

Mayor Post: I don't think we are jumping that because this is what they gave us. This is what they wanted us to approve tonight. Why was this written up this way if we couldn't tighten it a little bit because it written kind of loosely? But, you are saying we can do it at the next process. Now it is going to be interesting because I bet you at the next process, I am going to told we can't do it at the next process because it should have been done at the last process. We are here tonight, Councilman Prettyman, and if it was just – and I think that is part of the confusion too – if we were just here to approve whether we wanted to have an LPD or not, that is one thing. But to add on that we are also here for the approval of the large parcel development master plan and have been provided all the site plans for it, that is what muddled – for me – the water. Because, if you are saying – at the workshop you kind of said the same thing and you are saying it here tonight – you can't even change it to 800 trees, why don't you say we need to approve this and that is it?

Debbie Pfiel: Are you addressing me?

Mayor Post: I am talking to anybody who can answer me.

Debbie Pfiel: Well, out of the three consultants, I am the one. I am going to turn this over to a lawyer to address these questions now because I have tried to bring the code back and I understand this was muddled. Remember your Planning Commission did require some additional requirements that aren't normally in the process which they are empowered to do. The applicant did bring in everything they were asked for and then some. I don't want to be caught where I am between both sides and trying to make everybody move forward in a good process. Mr. Brady, the reason we put Chapter 17 in there was to assure you your code allows a public hearing. Your code allows the public to come in and speak about it. Your Planning Commission is empowered in Chapter 17 to make sure those items are done. That was a concern and the reason I brought the code back to this document was to reassure you that you do have – now whether it is followed or not is another thing – but you do have a lot in place that allows a subdivision process to be heard and items and recommendations to the detail in your subdivision code to be approved or tabled or denied. So, Mr. Brady, if you want to go into the LPD and the history and the document ...

Councilwoman Martin-Brown: I would like to have a chance to talk before Mr. Brady is introduced again. One, I thought the package you put together was much more helpful because it included all the information that I found very, very constructive and helpful and I thank you for that. Having said that, there is the possibility that within the ordinances of the Town – apart from an LPD – all of this could be built and done. There are prescriptions for streets and curbs and layouts and the whole nine yards without ever introducing the subject of an LPD. Now, what an LPD does is allow development that is pulled off of the everyday cornflake town ordinances and creates a kind of a floating target under the justification of an LPD. That is my prejudicial perception of it. For instance, on the very first page, is the maximum number of residential dwelling units shall not exceed 370. So far, so good. Then it says, detached single homes – 177; semi-detached – 118; multi-family – 75; and then it says “It is understood that the maximum number of residential dwelling units shall not be increased but the allocation may be reasonably adjusted.” We could have an allocation that lumps all total number of 370 dwelling units into a series of 40-ft. high townhouses – or euphemistically garden apartments. Where do we set things in concrete? Do we keep coming back to well maybe but it is under an LPD so it really doesn't stick on the wall. The issue is why should we grant an LPD at all? Why can't the White property be developed under existing town ordinances as any other subdivision?

Mayor Post: But you know, C. Martin-Brown, I am going to say this. You know, if we were at the point where we didn't want it to be an LPD, it shouldn't be on the books. I truly – although I can't digest where we are right now – I think we are saying this is fine and we will be able to make these changes down the road or strengthen this down the road – but the bottom line is that we do have the LPD and it is something that he can legally ask for. Personally, I am going to go on record – I see what you are saying and I know what you are saying – maybe the LPD needs to be looked

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at whenever we do the ordinance. I am not saying everything in that LPD I like. There are certainly some things that for me it does give more of a traditional neighborhood. I still think it could be tweaked better by the developer if they really wanted to do it but I don't think they have grasped it either. The bottom line is you know I am always saying oh the setbacks, the setbacks – five feet, ten feet to your neighbor. But look at all the houses on Main Street. They are ten feet from the neighbor. So you either want an urban-rural development or as the Town grows you do want it to look like part of the Town. In some senses, it does. I feel there is not much yard, but in some of the houses in Milton in quite a few of them, there are not a lot of yards. There is that flexibility in that and I am not going to get that hung up in that. The commercial expanded into those areas, I have a little bit of a problem with. There are some issues I do have with the LPD. But, at hand tonight, we have a developer that designed his plan around the LPD. Right or wrong, he had all the right in the world to do such and he did it. The way anybody here votes, that is their decision on it. What I am saying is that if you can tell me tonight – we do not need to address the fence next to the wells because it is not in here – I don't think if I recall. I have read it in detail.

Debbie Pfiel: It is not.

Mayor Post: You are saying that does not have to be addressed tonight. We can put it in at the next level. I remember talking to you after the meeting the last time, Debbie, and you told it needed to be done now. You did? I do remember that.

Debbie Pfiel: Right. I know you remember only the things in your favor. I know that.

Mayor Post: Often I do. If you are telling me that that is something they wanted and the developer agreed to it, we need to do it because it was an agreement that night by Mr. Reed, and Prett was here too that night – and I think that should be in here. Now, if you are saying it could be the next time, that is fine. If you say 800 trees could be in the next time, that is fine. If you are saying the verbiage for the street lights can be in the next time, that is fine. If you are saying the deadline to have the streets paved – because I am telling you right now, it is not going to happen again. I don't think there is anything I am sicker of than being there. I am starting to think tonight we are there again with the issues of dealing with these problems in these developments. The community has a right to be able to have street lights and they have a right to have streets they can drive on.

Debbie Pfiel: I don't think I am the bad guy here.

Mayor Post: I am not saying that but you will be if this is wrong with whatever we vote tonight and we can't add to it. You will be the bad guy.

Debbie Pfiel: Right.

Mayor Post: What I am saying is not to put pressure on you or our attorney.

Debbie Pfiel: There is none.

Mayor Post: If you are saying that there is too much presented, I think we need to stop that. When we talk about policy change, I think that is it. Quite frankly, I don't like any of that. I would like to see a conceptual come in. I'll be quite honest. I don't like where we are right now because I am very gun shy. If you are telling me tonight with how this is written, that it is all right and then we can toughen it up later regarding street lights and a time schedule. I understand with Mr. Dyer and I understand with good old Delmarva Power over here that supposedly they are backlogged and it takes them forever to get the lights in. Therefore, as long as I know they have applied to good old Delmarva Power by the time they take their first building permit out, I am happy. Then we can throw the flame over to here.

Councilwoman Martin-Brown: Can we hear Mr. Brady's opinion which Debbie has asked for?

Mayor Post: Go ahead.

Debbie Pfiel: I do want to commend – I have heard one person which is you – go through with the issues that you have.

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Mayor Post: I don't wasting my time.

Debbie Pfiel: It is your lawyer's interpretation of if that meets it or it doesn't. I am letting you know on a planning process the due process as far as the subdivision process has not been done yet. That is set up for the due process. But if you specifically ask can I have this in there and can I have this in there – you had a template in the past and I am not saying it was right and I am not going to say it was wrong. I was not here. You had a template in the past that was taken and added on with the specifics of this project. Therefore, you do have a pattern that has been done in the past with agreements.

Mayor Post: In your thinking for the future, can you stop thinking about the past? We need to think about how it needs to be done now. Right or wrong in the past. We need to know how we can do it to improve it with the future. Things have changed.

Debbie Pfiel: Right, I agree. However, it is hard for you to change things midstream of a developer who has been doing this project for two years. I am not saying this in their defense or not but it is very difficult. We are trying to get some training done as you requested. But to stop it in midstream -- if you look at that chronological events and when they submitted and how long it has taken. For one reason or another – the developer or the Town – I am not pointing fingers. This is in midstream so we just wanted to proceed forward but make sure you get what you ...

Mayor Post: I am not asking for you to stop. I am asking for you to strengthen some of the verbiage.

Debbie Pfiel: Mr. Brady, I think we are ready for you now.

Mayor Post: As long as you say it can be strengthened later, I am fine.

Debbie Pfiel: We will thumb wrestle.

John Brady: If the members of Council will turn three pages from the end of their packet to what on the bottom says Page 40. At the top of the page, it says 4.8.7 Master Plan Submission. This is from the Zoning Ordinance of the Town. The factors that you shall review tonight include as follows: (1) The total number of dwelling units. (2) Parking requirements for each housing type. (3) Accessory building requirements. (4) Height area and bulk requirements related to each proposed end use. (5) The proposed landscaping. (6) Proposed sidewalks. (7) Proposed street lighting. (8) Signage. (9) Open space. (10) Recreation facilities. (11) Trash containment. The Planning and Zoning Commission in the Town of Milton Town Council shall review the conformity of the proposed development with the standards of the Milton Comprehensive Plan and recognize principles of land-use planning and landscape architecture. The minimum lot and yard requirements, the maximum height requirements in the zoning district in which the LPD is located need not apply except the Town shall ensure an appropriate relationship between proposed land uses and existing land uses near the boundaries of the proposed LPD district. The Planning and Zoning Commission and the Town Council may impose conditions regarding the layout and design of the proposed development to assure compliance with development plan presented by the applicants. Procedure for Master Plan Approval 4.8.8. When a preliminary master plan is approved by the Town of Milton Council, it shall be returned to the Milton Planning and Zoning Commission pending preparation of a final master plan by the applicant. A final master plan incorporating all the requirements, amendments and conditions of the Town of Milton Council shall be reviewed by the Milton Planning and Zoning Commission and shall be placed on the record after such approval. No public hearing shall be required for approval of amendments to the record master plan unless changes proposed significantly alter a provision of the approved record master plan. So your vote tonight would be if it meets the minimum requirements of an LPD district in the master plan submission and those factors were the eleven factors that are enumerated in the record.

Mayor Post: Can I ask you this? We are certainly talking about some of the things in the street so all we need to know is on that site plan that has the streets and sidewalks?

John Brady: What is says is streets – because it has to comply with our code – the streets have to be laid out so they comply with the code of the Town of Milton and that the sidewalks comply with the requirements and the curbs and

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proposed street lighting has to be there, the signage, the open space and the other things. The big issues, I think, are 1, 2 and 3 (the total number of dwelling units, parking requirements and accessory building requirements) but all eleven factors are enumerated in what you are discussing comment on in your approval process.

Councilwoman Martin-Brown: But we are just determining whether they meet the minimum requirements and not whether we want to ask for more?

John Brady: That is correct at this point.

Councilwoman Martin-Brown: So we will be able to ask for more at a later step?

John Brady: Yes.

Mayor Post: Can I ask you this. There are so many site plans listed – conceptual, master, preliminary – six or seven. At this master plan, when it goes back over to Planning and Zoning, then it comes back before the final?

Debbie Pfiel: It goes to Planning and Zoning for a final from the master plan. As far as the subdivision, it is the only other opportunity the Council will have because it is in the hands of Planning Commission as the subdivision level according to your code. Council will have the final subdivision.

Mayor Post: This will not come back to us.

Debbie Pfiel: According to the way, Mr. Brady just read, it will not.

Councilwoman Martin-Brown: Well, that is the problem. Then, why are you saying we should not be dealing in these details tonight because we won't have another chance?

Debbie Pfiel: I am trying to explain that that is the subdivision process.

???? Councilwoman Abraham: ???? Well, it may be a subdivision process, but at the end of the day the Council is sitting accountable to the Town of Milton for what happens to them and their own neighborhoods and their community as this development goes forward.

Debbie Pfiel: But, you are only responsible for areas you are empowered to – the Planning Commission is empowered as well in your code. That is, Mr. Brady, the best thing I could analyze. The Planning Commission has empowerment within the code to make decisions.

Mayor Post: What we are saying and what Joanie is definitely saying is we are talking about responsible to the people – both the ones that elected us and those that didn't because there are plenty of people who live here that didn't vote. Guess what, we are responsible. That is where I have a problem with swallowing this. To hear it to be said that there it is and this is all you can do and to vote on it. Send it to the P&Z and you will never see it again. The comments mean nothing. If that is our ordinance and that is our process, it has problems – serious problems. Why waste my time? Why didn't you tell me that three or four months ago? Why did we need to comment on it? There is nothing to comment.

Debbie Pfiel: I have not said that you cannot put anything in there. I have heard your comments and we addressed the three that you brought up.

Mayor Post: You are not interested in anything I brought up so if they keep 600 trees over in Planning and Zoning, I have no say so that it gets 800. I don't have a say that 200 trees – we can't even make recommendations to Planning and Zoning on the things we think should have been included. So, you know what, our hands are tied.

Councilwoman Martin-Brown: Is it worth for us to make these recommendations? Even though you say they are too detailed, we can't technically require that but we can make the recommendations to Planning and Zoning that they make them.

Debbie Pfiel: Mr. Brady, isn't that what we are asking for tonight – for their comments to go back to Planning Commission? The Planning Commission does have the final say on the final master plan.

Councilman Prettyman: We are making our recommendations back to Planning and Zoning. When they get our recommendations, they can make the point and send it back?

Debbie Pfiel: And do their job in your code, correct.

Mayor Post: But our recommendations can only be generic? Technically, we can't make any recommendations.

Debbie Pfiel: That was not said tonight.

Councilwoman Martin-Brady: They just don't have the force of requirements from us but we are telling Planning and Zoning we would like them to make the revisions because they have the power to do so.

Mayor Post: Well, I thought the purpose of this was to make changes.

Councilman Prettyman: That is what we are doing, Mr. Mayor, making the recommendations to the Planning and Zoning so that they will put the stronghold on these recommendations and bring them back to us.

Councilwoman Martin-Brown: They don't come back.

Mayor Post: There don't ever come back to us.

Debbie Pfiel: Within the parameters of what Mr. Brady read out of your code.

Mayor Post: I gave you my concerns of the details needed when streets are completed, the verbiage of the bond issue, and things like that. You said none of those should be addressed tonight. It was verified by our attorney. So even the request of the trees you said really shouldn't be addressed.

Debbie Pfiel: I did not address your tree comment. But I will say, when you said Item 13 – we can go back to the record – Item 13, I did recommend to cross off. Like you said that you wanted public street and utility ...

Mayor Post: I did say public street and utility.

Debbie Pfiel: That item was addressed for the record. The second one was Item 15.

Mayor Post: Can you put the verbiage of 125% of the cost improvements?

Debbie Pfiel: That is when I referred to Mr. Brady to say that this is part of the subdivision process. That is already in your code so you have to reiterate it again. That was my point. That is already in your law right now. Am I correct in saying that, Mr. Brady, is an existing law?

John Brady: I think what that item said was before a CO will be given for the model home which means it can be utilized that the bonding requirement has to be done. I think crossing out the thing about streets and utilities and putting in the bonding as required by code would clarify all the reasons in Chapter 17 for which the bonding is necessary.

Mayor Post: And the streets as far as work on them to be completed in x amount of time after the completion of the development?

Debbie Pfiel: I am going to let Bob Kerr address this. I have never seen where you have given a time line on how many streets and when.

Councilwoman Abraham: Well, we want to.

Debbie Pfiel: Well I am going to refer to your engineer because I don't do streets. That is one thing I am not doing tonight.

Bob Kerr: If the Town has a bond, the developer is very interested completing the streets so that the bond is released and you can use that money on other projects. Typically, the bond encourages the developer to finish as quickly as possible.

Councilwoman Abraham: Look at how quickly he is finishing Shipbuilders?

Bob Kerr: Shipbuilders did not have a bond. No one in Town required it.

Mayor Post: No developer has a bond in this Town.

Bob Kerr: There were documents developed for Cannery Village and Chestnut Crossing and Wagamon's. I don't know if the Town collected the bond, but I know that the documents were prepared and ready for signatures.

Mayor Post: Where is our Town Manager? So for Wagamon's, the Cannery, and Chestnut Crossing, there were documents drawn up for bonds, Mr. Dickerson?

Councilwoman Abraham: Did they pay them?

Bob Kerr: They were here before Mr. Dickerson was Town Manager.

Mayor Post: I am trying to bring them to his light so he will have more work to do this week to find out about these bonds.

Bob Kerr: Whether they were bonds or – I don't remember which one but one of them was going to be a Letter of Credit.

George Dickerson: There are bonds with Wagamon because some of those have been released when the streets to be done.

Bob Kerr: That is the reason that the item about the model home was put in there because there is nothing in your ordinance that allows a model home without that.

Mayor Post: The Cannery – is that bonded?

George Dickerson: I don't know.

Mayor Post: We need to find out.

Bob Kerr: The documents were discussed. I just don't know if they were finalized.

George Dickerson: I only know Wagamon's because a request was made at some point to release some of the ...

Mayor Post: How about Heritage Creek? Do you know if Heritage Creek was bonded?

Bob Kerr: They are working on it now. It is on your agenda this evening to be approved.

Mayor Post: That is the bond?

Bob Kerr: Typically, the subdivision has to be approved before you go through the bonding process.

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???? Councilwoman DUBY: Can I ask a question of process then? If like the Mayor did and went through and made certain recommendations that P&Z consider when this comes back to them, can other members of the Council do that? Does the Council have to vote on each of those changes or proposed requests to P&Z or is it just sort of done as a laundry list that you hope P&Z will take under advisement?

John Brady: Normally, a motion would be made to grant the LPD designation subject to the following conditions. You have what was drafted as a result of the work of the attorney, the engineer and the planner and then you can amend that. There have been four amendments already proposed by the Major. The motion would probably be as amended into the final draft.

???? Councilwoman DUBY: Would it be an omnibus motion so that other members of the Council can make their proposal?

John Brady: That is why you haven't made any motion yet so you could discuss this.

???? Councilwoman DUBY: Mr. Mayor, can I make some requests for consideration for amendment? The first one would be that clause in Number 1 be eliminated following the description of the type of houses that total 370 and that it is fixed?

Mayor Post: They have permitted that in the LPD so that can't be done.

???? Councilwoman DUBY: So you have to vote an LPD before that is allowed?

Mayor Post: Yes.

???? Councilwoman DUBY: Secondly, bituminous is a coal-based surfacing. Is there anything that can be said about that type of surfacing to be porous because DelDOT has that material for state highways now?

John Brady: Not for hot mix. That recommendation came right from DelDOT.

???? Councilwoman DUBY: And under the LPD is it my understanding that the height restriction of 30 feet can be increased to 40 feet for the buildings that are not single family homes? Is that allowed under the LPD?

Bob Kerr: That is not allowed under LPD. It is allowed under the zoning R3 which allows a 40 foot. R1 allows something less – 30 something.

???? Councilwoman DUBY: 30.5. And for a semi-detached, a 30.5 as well?

Mayor Post: 40, I think.

Bob Kerr: Semi-detached is also 40 per the R3 code.

Mayor Post: Multi-family is 40.

???? Councilwoman DUBY: Okay, so those are not under the LPD. Thank you.

Mayor Post: Commercial is 40.

Councilman Prettyman: Mr. Solicitor, are we at a place to make a motion?

John Brady: Yes.

Mayor Post: I am done. I just hope that Planning and Zoning would recognize that the developer promised 800 trees even though here we have 630. I know it is not major but he was saying that he would give 200 trees to the Town and I think it should be in here defined that way. If we have already named the number of trees, I just don't see why that can't go as a recommendation.

Debbie Pfiel: 800 total – is that the way you want it worded?

Mayor Post: I read it in the minutes and it says 800.

Debbie Pfiel: How do you want it worded so we can type it in?

Mayor Post: 600 were to go into the development and then 200 were going to be given into the Town of Milton. That is what he said; I was just reading it from what he said in the minutes. Who is going to go back and read the minutes? That is why we are here where we are today with all this stuff. That is why it all comes back to 630 – if you are saying 630, then you don't have to do the 800 even though it says at least.

Debbie Pfiel: Can I get a clarification on the trees? 200 given to the Town and planted? How is that?

Mayor Post: That is what the developer said. He said he would give 200 trees and he did not go into details. I am not going to say that he is going to plant them. All I can say is that he did say he was going to give 200 trees to the Town of Milton.

???? Councilwoman Duby: There is no problem with the Wells fence?

Mayor Post: Should the wells fence go now as a recommendation because they have agreed to that or does that come later and hope that – the problem here is that I am not quite sure why we have a public hearing and Mr. Wells stood up and spoke. How would they know at P&Z because he did not go speak at P&Z. Therefore, how would they know that would be an issue unless we say something about it – even in a memo?

Debbie Pfiel: What is the wording on the Wells fence?

Councilman Prettyman: Excuse me. In the P&Z report of November 21, 2006, it states there that they have agreed to plant 800 trees within the community and donate 200 trees to be planted at the direction of the Town.

???? Councilwoman Betts: That was just an obligation that they said. The 600 and some are going to be planted in their area and then just give the 200 trees. That doesn't have anything to do with the LPD. The 200 is being given to the Town and they are going to plant the 600.

Mayor Post: Number 21 already stated that at least 630 trees. If it had nothing to do with the LPD, then no trees should have been mentioned at all here. Therefore, this is the opportunity to get it correct instead of it going over as recommending 630 trees. He agreed to 800 and if you think anybody is going to back and well let's see back in 1997 ... This thing has been going on and on and that is why we are trying it at five years. Nobody is going to look at what the developer said five years ago about what he was going to do. I am saying that if it is already in here we need to get it correct. Now, if it didn't have anything about trees and nobody cared, that is fine. I just question whether anybody would go back and look at it.

Debbie Pfiel: I did the changes you requested. I added 200 given to Town.

Mayor Post: Now, the fence – the Wells property fence. I don't know but there needs to be some type of verbiage that a buffer fence will be placed along there – is that Farmlands Preservation along there, Donna?

Donna Johnson: It is.

Mayor Post: Mr. Wells requested a fence and Mr. Reed and Mr. Dyer both agreed that night to do it. There is nothing wrong with going ahead to put that in there.

Debbie Pfiel: Buffer fence along the Wells property?

Mayor Post: Yes.

Debbie Pfiel: Next?

Councilwoman Hudson: There was one thing that we had discussed. Going back to Number 4, Page 1. I would like to see a sidewalk on the south side of Union Street. There is already part of a sidewalk there along the preserve. Because of the increase in population and also because of the people in River Walk that would also mean an increase in children along with the VFW's Little League Park back there. I think from Union straight on back to Country Road – the same way this is written here – there should be at least a sidewalk on the south side.

Debbie Pfiel: Mr. Kerr may have some information on that. Are there right-of-ways or enough width of the road?

Bob Kerr: There may be right-of-way issues. Atlantic Avenue may have a narrow right-of-way. Some of the sidewalks may not fit within the right-of-way and would have to be on the private property.

Councilwoman Hudson: If you walk down that street, you will see where curbs have stopped several feet before the grass stops. In other words, every time we spread sand and gravel during a snow storm, that stuff accumulates and the grass is growing in and growing in. This street can be considerably wider than it is now because if you look where curbs have been placed along those sides. Where the owners are cutting grass, that is really Town road.

Bob Kerr: Where the curb is located, I believe in some instances is the right-of-way which means the sidewalk would be on private property. I am not sure because we have not done a survey in that area. It is difficult for a developer to obtain right-of-way to construct the sidewalk.

Councilwoman Hudson: If it is possible to add my recommendation, I would like to see sidewalks – a sidewalk at least on the south side from Union Street to Country Road as much as possible.

Debbie Pfiel: You are saying if it is within the right-of-way.

Councilwoman Hudson: Yes, that is exactly what I am saying. There was another thing brought up about the developer receiving credit for work done on that street.

Debbie Pfiel: I believe that was not in the agreement. If you want to put that in there, you need to make a recommendation.

Councilwoman Hudson: I think Mr. Brady said that a precedent had already been set in the minutes so since we are making recommendations. One of the things I read in the 2006 minutes when the annexation fee had been proposed and approved, the 8,000 per acre was that 65% of that would go to a sewer and we no longer have sewer. Now, 10% was for sidewalks and streets.

Mayor Post: That is incorrect, Councilwoman Hudson. We did a whole expenditure – capital improvements. We voted on it and where those annexation fees will go. I don't even know if it had anything to do with sewer because that was the sewer impact fee. So it went to other capital improvements to the Town. It spelled out – I am sure it is somewhere on record and we can pull it – but the capital improvements are to go for other things in the Town.

Councilwoman Hudson: It is in the minutes.

Councilwoman Abraham: The bottom line is we don't have to say anything about that because we determined that we would not wave those fees and that they were responsible for the streets.

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Councilwoman Hudson: Okay. If at all possible, sidewalk on the south side for the safety of the children.

Debbie Pfiel: I added “Sidewalk on the south side of Union Street to County Road if allowed within the right-of-way.

Councilwoman Abraham: The south side of Atlantic from Union.

Councilwoman Hudson: It follows Number 4.

Debbie Pfiel: Right.

Councilwoman Hudson: So, not on County Road going out to 16.

Debbie Pfiel: To County Road.

Councilwoman Hudson: Up to it?

Debbie Pfiel: Right. Any other comments from anybody? [No response.]

Councilman Prettyman: I make a motion that the R1/R3 LPD preliminary – with the recommendations we have made tonight – to go back to Planning and Zoning for their approval.

George Dickerson: No, how about this for a motion? The motion is to rezone the White property from R1/R3 zoning to R1/R3 zoning with an LPD (Large Parcel District) overlay and for preliminary approval of the LPD (Large Parcel District) master plan as amended by the amendments that we discussed by Council and made part of the record prior to this motion. That is my motion.

Councilman Prettyman: That is my motion.

Councilwoman Hudson: I will second it.

Councilwoman Betts: I will second that.

Mayor Post: We have a motion and a second on the floor. Any discussion to the motion? [No discussion]
Okay, let’s go roll call vote.

Councilwoman Abraham: I want to ask Mr. Brady something because I am making an assumption that may not be valid. Mr. Brady, with any agreement that we reach and any approval that this parcel gets through the entire process, if it is then sold by the current owners to another developer to complete the project, all of this carries with it – it goes with it, right?

Mr. Brady: Yes, it runs with the land.

Councilwoman Abraham: Okay, that is what I thought.

Councilwoman Betts: Shouldn’t it be within so many years. In case, they decide to not do anything for 20 years like Wagamon’s did?

John Brady: You don’t have that pursuance; it is not permitted. That requirement is currently not permitted under your ordinance.

Councilwoman Betts: Okay, that is what I wanted to know.

Mayor Post: Okay, we have a motion and we have a second and we certainly have discussed it so we will start with a roll call vote: Martin-Brown: Mr. Mayor, I vote no on this as a way to express my deep concern about the adverse impact of the LPD status. Thank you. DUBY: I vote yes but I also want to express some concern about the LPD. I hope that we will look at the issue of that entire ordinance as some point soon. Hudson: I vote yes. Prettyman: Yes. Abraham: Yes. Betts: Yes. Mayor Post: Yes. Motion carried.

18. New Business:

- a. Request for partitioning and minor lot line adjustments for parcel #2-35-14.19-32.00, 33.00, 34.00 & 36.00, 43.00.

Mayor Post: If the applicant would give his name.

Truit Jefferson: There reason we are here tonight is I have one deed with the descriptions on Union Street; it is 96 feet on Union Street and about 120 feet deep. On it is 414 Union Street and 416 Union Street. I wish to divide this land so that I can have two properties – I sold a little land for each property on each side – so I can start to improve the yards there and mark them. I need your approval. When I did this, we came up with seven variances. We have been to the Board of Adjustment and they approved them. I have Chuck Adams from Adams Kemp with me to explain what we have done.

Charles Adams: I am with Adams Kemp in Georgetown, DE. We did the surveying of the entire parcel. There is a handout. Basically, it is the location of all the structures and all the property lines within the property. We analyzed with Mr. Jefferson what he wanted to do with these properties and how much would have to come from each to be added on or taken away to create a subdivision as you see on the plan. I can read through the list with the Board of Adjustment if you need me to but basically there were four adjustments for the small lots where these two houses are that were on one lot, one tax parcel. No, four on one and three on the other.

Truit Johnson: Some of those were buildings that were there from the beginning of time. They were too close to the line. We needed a variance for the lot size. The lot size came up to 73-65 and it is not R1. The variances were for the square footage for the lots. They did not meet the 10,000 sq. ft. The front footage was 60.5 ft. instead of 75. Between the houses, I didn't have enough room so one house did not have a 10-ft. setback. If this is approved, I plan on moving 416 five feet north and that will give some more room in there. Then, the two buildings in the back created variances. The Board of Adjustment voted on those and approved them. Then, what I did was over here on 420 – 420 encompasses part of this field in the back. I drew a line across the top to make a separate lot out of it. Then, I drew a line down on the side which took about 20 feet from this lot and put it over here. I didn't want to take too much from this because it is a corner lot and I want to try to get it decorated up sometime. Then, we took a line in the middle here. The other thing we were trying to do is keep the water and sewer hook-ups on the same lot. Then we came over on the south side and we drew another line here. I wanted to get more of 412 to 414 but the sewer hook-up got in the way so we drew it where we could. Then a separate issue is we went down here and took out a little tiny piece for Mary Hudson who is interested in expanding her lot. That is it. It will have two lots. Then, back here, I don't have anything in writing yet and you don't have all your regulations there – but in the back of mind I am thinking of something like Shipcarpenter's Square in Lewes. I don't want to move old houses in there but I want it to compliment the houses that are on Union Street and Federal Street.

Mayor Post: Did I hear you say you are going to move one house five feet?

Truit Johnson: As soon as the regulations will allow me. 416, I have not redone. I want to take the back off and move it just a little bit north to get a little more distance between these two houses. I want to keep my driveway on the south side of that house. If I can get five more feet, that will give me plenty of room. Then, when I move it, I will raise it up as high as the house on each side. Then all four of those houses will have new foundations with footers and so forth. It has a cement porch now. It will come out and a wood floor porch will go back in.

Councilwoman Hudson: As much as I am in favor of this, I have to recluse myself because I am personally involved in the lot line movements.

Mayor Post: This is just line adjustments. You originally had it all on just two lots?

Truitt Johnson: Two houses on one deed.

Mayor Post: It splits it into two lots. Do we have a motion?

Councilwoman Abraham: I make a motion to approve partitioning and minor lot line adjustments for parcel #2-35-14.19-32.00, 33.00, 34.00 & 36.00, 43.00.

Councilman Prettyman: I second that motion.

Mayor Post: We have a motion and a second. Any discussion to the motion? [No discussion.] Can we have roll call? Roll call vote: Martin-Brown: yes; DUBY: yes; Hudson: I reclude myself; Prettyman: Yes; Abraham: Yes; Betts: Yes; Post: Yes. Motion carried

b. 2008 Committee Appointments.

Mayor Post: We need to appoint the Vice Mayor, Secretary and Treasurer at this meeting according to the Charter. Then, I would like to have all the other committee appointments moved to April 17, 2008 meeting because the Charter requires the new form completed by all committee members. I would like to appoint Vice Mayor Leah Betts; Secretary and Treasurer combo is Ronda Abraham; and Assistant Treasurer is Noble Prettyman. I need a motion.

Councilman DUBY: I move those motions be approved and the remainder of the appointments be tabled until the April 17 meeting.

Councilman Hudson: I second.

Mayor Post: We have a motion and a second. All in favor, say I. No one opposed. Motion carried.

c. Appointment of an ad hoc committee on developing a code of conduct for the Town.

Mayor Post: We need to defer until April 17, 2008.

Councilwoman DUBY: Could you explain because I don't understand what this is about?

George Dickerson: Right now, you are covered by the Public Integrity Commission and the Code of Conduct for the State, Chapter 58 of Title 29 in the Delaware Code. Municipalities have been encouraged to adopt a local code of conduct with a local ethics commission. This ad hoc committee would look at other towns. Nine towns have adopted local codes of conduct and one county – New Castle County. They would look at those and come up with something for the Town of Milton and perhaps recommend to the Town Council they adopt their own ethics commission. Therefore, ethics complaints can go to the Town Ethics Commission instead of going to Public Integrity Commission as was provided for in House Amendment One to the Charter change.

Councilwoman DUBY: Thank you.

Mayor Post: The state came here two or three years ago asking for the Town to do this.

Councilwoman DUBY: I move we table this item until April 17, 2008 meeting.

Councilwoman Hudson: Second.

Mayor Post: Any discussion to the motion? [No discussion.] All in favor, say I. Motion carried.

- d. Request for appeal of B.O.A/H.P.B. denial of demolition permit- 207 Union Street 2-35 14.19-173.00.

Mayor Post: Can the representatives come up front that state their names.

Stephanie Hansen: Good evening, Members of Council and Mayor Post. My name is Stephanie Hansen and I am an attorney with the law firm of Young, Conaway, Stargatt and Taylor in Georgetown. If I could, I would like to make sure that my equipment is going to run tonight. I have a PowerPoint presentation and we have an easel we would like to set up behind you. I am here on behalf of the applicant. With me tonight are a number of folks. I have Kim and Jeff Hamer who are the applicants. We also have Mr. Fred Legg who is the structural engineer and he is with Devon Design and Drafting. Mr. Ed Hall, who is with E. H. Custom Homes who did renovation estimate for us. Mr. Bruce Meara who is an electrician with Electric Works, Inc. We were going to have Mr. Wes Fruehauf with us from Echelon Custom Homes. Mr. Fruehauf was planning on attending and this morning his wife went into labor and he is at Beebe Hospital doing other things today. This is an appeal of a denial of a demolition permit by the Board of Adjustments that was sitting as the Historic Preservation Commission. Back on November 1, 2007. This is for the property located at 207 Union St. and it is currently zoned town center. The applicants requested this appeal by letter to the Town dated November 15, 2007. We have cooperated with the Town in coming up with an agreed upon date for the hearing. I think there was also some question about the Town wanting to have some time to have an engineer come in and take a look at the property and then a little bit of time to have a look at what the engineer's report said. This property is located within the Milton National Historic District. It is also located within the historic preservation and overlay district. It does not apparently seem to be specifically listed as an historic building on the National Register of Historic Places though within the Comp Plan. There are a number of procedural issues this evening. The Town Solicitor and I have discussed these. (1) This appeal is to be conducted under that portion of the zoning ordinance that was in effect prior to September 4, 2007. That is when you passed your latest historic preservation ordinance. That means that the appeal here tonight is front of you, Town Council, as opposed to your new ordinance which had said that appeals in the future will be in front of Superior Court. At this time, I would like to go over with briefly what you have in front of you as far as the exhibit booklet. You should have a booklet with you. The very first page is a picture of the property. The second page is the table of contents. The first exhibit is from Devon Design and Drafting, the engineers hired by the applicants. We are going to go over each of these exhibits. Exhibit B is the report from Steinholdt Construction Engineers, the engineer hired by the Town to take a look at the property. Exhibit C is a termite and pest inspection report. D is the report from the electrician at the Electric Works, Inc. E is the renovation estimate from E. H. Custom Homes. F is the letter from the house mover, East Coast Structural Movers. G is an award from Rehoboth Beach Main Street, Inc. for the applicant. H is a rendering of the concepts sketch which is also the same concept sketch that you see here this evening. We will probably ask the applicant to do like Vanna White and walk the aisles here so the folks in the audience can see it as well. Jeff, can we turn it so the people in the audience can see it? The Council Members have a copy of the concept sketch in your packet. Lastly, there is the multi-list sheet under Exhibit I. The PowerPoint presentation will be a virtual walk-through of the house. We believe that what you will see and hear tonight through the course of this presentation is a general theme. That theme is that the condition of the structure at 207 Union Street is beyond reasonable efforts at rehabilitation and repair and should be demolished. The first witness I want to bring forward tonight is Mr. Jeff Hamer who is the applicant. I can get some question and answer for you to be on the record.

Q&A:

Stephanie Hansen: Please state your name for the record.

Jeff Hamer: My name is Jeff Hamer.

Stephanie Hansen: When did you purchase 207 Union Street?

Jeff Hamer: In June of 2006.

Stephanie Hansen: What is the approximate age of the building?

Jeff Hamer: We were told by – I believe it was Lob Lolly Associates which is part of Draper Holdings – who we purchased the building from that the approximate age of the building was 1888 to the late 1800's to the early 1900's.

Stephanie Hansen: How long has the house been vacant?

Jeff Hamer: The house has been vacant for approximately 30 years. We were told at settlement by the person we were purchasing the house from.

Stephanie Hansen: Why did you purchase the house?

Jeff Hamer: I purchased the house with the intent of putting a restaurant in a commercial space downtown in Milton.

Stephanie Hansen: After you purchased it, who did you first contact regarding renovations?

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Jeff Hamer: I contacted Wes Fruehauf.

Stephanie Hansen: Is he with a particular building company?

Jeff Hamer: Wes Fruehauf is a senior project manager for Echelon Homes. They are a custom home builder.

Stephanie Hansen: Did you know Mr. Fruehauf from before?

Jeff Hamer: I did. I knew he had done some renovations in Rehoboth. In particular, he renovated some historical properties so I wanted to take a look at it.

Stephanie Hansen: Did he actually come out to the house to take a look?

Jeff Hamer: He did.

Stephanie Hansen: What did he tell you?

Jeff Hamer: His suggestion was that I contact a structural engineer before I attempted to start renovating the house.

Stephanie Hansen: Did you contact the structural engineer?

Jeff Hamer: Yes, we did.

Stephanie Hansen: Who was the structural engineer that you contacted?

Jeff Hamer: It was Fred Legg.

Stephanie Hansen: Mr. Legg is here tonight?

Jeff Hamer: Mr. Legg is here tonight from, I believe, Devon Associates.

Stephanie Hansen: Yes, Devon Design and Drafting. Did Mr. Legg perform the structural analysis?

Jeff Hamer: Yes, he did.

Stephanie Hansen: Is his analysis in letter form that we find at Exhibit A, Tab A, the Devon Design Drafting, August 11,

Jeff Hamer: Yes, that would be the letter he sent back to us.

Stephanie Hansen: What was the conclusion of Mr. Legg's structural report?

Jeff Hamer: The conclusion was that the house had a deteriorating foundation and that the house would have to be lifted up in order to place a foundation and that probably the house would not survive the lifting of the house.

Stephanie Hansen: I would like to note for the record the conclusion in the August 11, 2007 from Devon Design and Drafting. That conclusion states: "In conclusion, it is felt that if the building was to be restored, a new foundation would be required. To achieve this, the building would have to be raised sufficiently to allow for the new construction. It is also felt that due to the building's age and general poor condition of the structures, the building may not survive such a traumatic operation. Jeff, did you have a pest inspection performed on the building?"

Jeff Hamer: We did.

Stephanie Hansen: When was the inspection performed and who did the inspection?

Jeff Hamer: Active out of Lewes did it and we had that done in June of 2006.

Stephanie Hansen: I would like to note that the wood destroying insect inspection report by Active Pest & Lawn dated June 23, 2006 is in the exhibit book at Tab C. What was the result of the inspection?

Jeff Hamer: The house had extensive infestation of termites and powder post beetles and had for some time.

Stephanie Hansen: I would like to draw your attention to the inspection report on the first page where it mentions that active termites and powder post beetles were found in the crawl space, at numerous places on the main level of the building and also in the exterior of the building. Have you had an electrical contractor come out to the building to take a look at the electric system?

Jeff Hamer: Yes, we did. We had Bruce Meara of Electric Works come out to take a look at the electric.

Stephanie Hansen: What did Mr. Meara find?

Jeff Hamer: The power box and the actual electrical service was a 60-amp service. It wasn't code and the wires in the house were deteriorating. He strongly recommended that we do not turn the electric on in the house since it had not been on in 30 years and the whole entire system would have to be replaced since it had not been on in 30 years.

Stephanie Hansen: I would like to draw your attention to Tab D in the exhibit book which is a letter from Electric Works Inc. regarding the electric system at 207 Union Street stating the system is currently unserviceable and very deteriorated. We will also have Mr. Meara come up and give us a few words shortly. Did you talk with anyone else about actually moving the building?

Jeff Hamer: We did.

Stephanie Hansen: Who was that?

Jeff Hamer: We talked with Wes Fruehauf who I knew had moved buildings before and renovated them and got his opinion on whether he would like the house. We offered him the house for free if he wanted to move it into another historic lot that he owned in Town. He didn't feel that the house would survive moving.

Stephanie Hansen: He actually came out and took a look at the house?

Jeff Hamer: Yes, he did.

Stephanie Hansen: With the intent of moving it to another lot in Milton?

Jeff Hamer: Yes, he did.

Stephanie Hansen: You were going to give it to him for free?

Jeff Hamer: For free.

Stephanie Hansen: He was going to assume the charges of whatever they were for moving the building?

Jeff Hamer: Yes, he was.

Stephanie Hansen: The eventual outcome was?

Jeff Hamer: He did not feel that the house could be moved.

Stephanie Hansen: Okay. Have you actually contacted a house-moving company and gotten any information from them regarding the costs or feasibility of moving the house?

Jeff Hamer: Yes, we contacted East Coast Movers to get a second opinion. I believe it is John Davidson.

Stephanie Hansen: I would like to note for Council Members for the record the letter from East Coast Structural Movers Inc. located in your exhibit book at Tab F. The letter was written by Mr. John Davidson regarding 207 Union St. and states "Due to the extent of the utility wires involved in moving the structure, it is definitely not feasible to move." Jeff, have you tried selling the house to someone else?

Jeff Hamer: We did list the house then and tried to sell it and not have to go through this process.

Stephanie Hansen: How long have you had the house up for sale?

Jeff Hamer: Since December of 2007.

Stephanie Hansen: Have you had any reasonable offers?

Jeff Hamer: No, we have not.

Stephanie Hansen: Have you contacted anyone regarding the costs to renovate the building?

Jeff Hamer: Yes, we have done that in the process as well. We contacted Ed Hall from E.H Custom Homes who I also know has done extensive renovations down in Rehoboth. He did the McQuay's Market that was built exactly like the old McQuay's. He has done several renovations – historic renovations – and other renovations. He has actually built houses in this town as well.

Stephanie Hansen: I would like to note for the Town Council for the record that the estimate to renovate the building for residual use has been supplied by Mr. Hall and is located in Tab E of your exhibit book. Mr. Hall will also be up here this evening shortly. We can have a chat with him; a little Q&A. Basically, there are three things I want to touch on in his report. He noticed the presence of mold throughout the house. The existing fireplaces he felt were a fire hazard. Lastly, and very importantly however, the cost to renovate the building for residual use – he has given us a cost of \$745,000. Jeff, have you ever renovated an historic property before?

Jeff Hamer: I have. As I stated last time when I was here that I have renovated historic property.

Stephanie Hansen: Which historic property is that?

Jeff Hamer: It was 167 Rehoboth Avenue where I currently have a restaurant. It is Claws Crab House. It is right next to the Post Office on the right-hand side in Rehoboth.

Stephanie Hansen: How much did it cost to renovate?

Jeff Hamer: Over \$600,000 when we renovated because it is commercial. I am not 100% sure of your requirements. In the Town of Rehoboth, the first two blocks in the commercial district everything has to be fire-rated wood which is twice the expense. And it has to be steel – all your joists and everything have to be steel. Then, you have to use stone. Stone, concrete – whatever on the outside – but it has to be fire retardant. If it is over some many people, it has to have a fire-suppression system.

Stephanie Hansen: Did you get an award for that renovation project?

Jeff Hamer: I did – from the Main Street Association of Rehoboth I won – I think it was the Cottage Preservation award.

Stephanie Hansen: The 10th Annual Rehoboth Beach Cottage and Town Award. The press release for the award is found in the exhibit book at Tab G. The award recognizes "Contributions of property owners to the charm, beauty and ambience of the community through recent restoration, renovation, new construction or preservation initiatives. Jeff, if granted the demolition permit, do you have any idea of what the type of new building would look like?

Jeff Hamer: We had a rendering done of the commercial structure with residential above.

Stephanie Hansen: This concept sketch is reproduced at Tab H. Jeff, would you be amenable to working with the Town and taking their suggestions for how any new structure might look?

Jeff Hamer: Yes, as I said at our first hearing, I would be happy to sit down with the Planning Commissioner or whoever it is or an Architectural Review Committee to go over the drawings and the new plans for the building.

Stephanie Hansen: Would you be willing to keep as much of the historic usable material as possible in your new building – for instance, I believe we will hear the light fixtures mentioned in a number of reports are usable?

Jeff Hamer: Yes, I said before I would be happy to save things from the building and use them in the new building as long as code permits. I am happy to do anything like that.

Stephanie Hansen: With the condition of the property today, I would like for you to tell us currently of how much it costs to keep the property per month; we are talking about the mortgage you have, any insurance – flood and homeowners insurance – town and county taxes, and water and sewer.

Jeff Hamer: It is approximately \$1,877 a month. A lot of that is because the house can't be occupied. Insurance is incredibly more expensive when you have a vacant house than when you have an occupied house.

Stephanie Hansen: Thank you, Mr. Hamer. At this time, I would like to ask Mr. Legg to come forward. Mr. Legg, please state your name and occupation for the record.

Fred Legg: My name is Fred Legg and I am civil structural engineer in the state of Delaware.

Stephanie Hansen: Are with a particular company?

Fred Legg: I have my own company, Devon Design and Drafting.

Stephanie Hansen: I would like you to tell a little bit about your educational background. From where did you graduate, what year and what was your subject of interest?

Fred Legg: I served my education at the University of Aston in the city of Birmingham in England. I graduated with a Bachelor of Science Degree in Civil Engineering in 1969. Later that year, I became a member of the Institute of Structural Engineers in the U.K. From then, I had various jobs with architectural and engineering companies. Coming to the states, I had to take exams again. They wouldn't recognize reciprocity. I took exams and qualified as a professional resident engineer in the Commonwealth of Pennsylvania. Then, having moved to Delaware, I got reciprocity to get qualified here and also in the state of Maryland. Those took place in about the mid-'90s.

Stephanie Hansen: You are currently a licensed professional engineer in Delaware?

Fred Legg: Yes.

Stephanie Hansen: How long have you been examining structures as a structural engineer?

Fred Legg: As a structural engineer, initially in the United Kingdom, from when I qualified in the late '60's. Then later when I came to the U.S. permanently in 1992 – which is when I started the company, Devon Design and Drafting, I was involved in light commercial work – both the new and reconstructive for those types of buildings.

Stephanie Hansen: You do residential and commercial structural assessments?

Fred Legg: Yes, light commercial.

Stephanie Hansen: Okay. How long have you been doing this?

Fred Legg: Since 1992.

Stephanie Hansen: Do you review buildings of historic interest to determine their structural integrity?

Fred Legg: On occasions.

Stephanie Hansen: Where do you do most of your work today?

Fred Legg: In Sussex County, Delaware.

Stephanie Hansen: Have you performed structural evaluations on structures in Milton?

Fred Legg: Yes, certainly, including this building. It was one of them. I have done several on Federal Street. There was a building – I think it was on Collins – that used to be the old sewing building. I think it was sewing or buttons; one of the two. I think it has since been demolished. The last one I was involved with was on Mill Street. That was looking for a demolition permit which was granted but that building already was condemned by the city anyway.

Stephanie Hansen: Do you review buildings for just demolition or for other things as well?

Fred Legg: No. The last thing we want to do is demolish buildings unless it is absolutely necessary. More often than not, buildings can be renovated with a judicial sort of engineering.

Stephanie Hansen: Did the applicants contact you to do a structural assessment of the house at 207 Union Street?

Fred Legg: They did.

Stephanie Hansen: When did you do that review?

Fred Legg: I think it was August of last year – was that when it was?

Stephanie Hansen: It would be on your report.

Fred Legg: Yes, it was August of last year.

Stephanie Hansen: Did you visit the property?

Fred Legg: Yes.

Stephanie Hansen: How long were you at the property conducting your assessment?

Fred Legg: About an hour or an hour and a half, I would think. Maybe, a little longer. It is typical to assess.

Stephanie Hansen: Did you view both the inside and the outside of the building?

Fred Legg: I did.

Stephanie Hansen: Did anyone else accompany you during your visit?

Fred Legg: No.

Stephanie Hansen: Did you develop a report documenting your findings from your visit?

Fred Legg: I did.

Stephanie Hansen: Is this the August 11, 2007 letter to Mrs. Hamer that was previously submitted to the Board of Adjustment and now located at Tab A in the exhibit book?

Fred Legg: Yes, it is.

Stephanie Hansen: Does that letter accurately reflect your findings from your visit to the property?

Fred Legg: Yes.

Stephanie Hansen: Have you also reviewed the structural assessment performed by Steindl Construction Engineers located in Tab B of the exhibit book?

Fred Legg: Yes, I have several times.

Stephanie Hansen: Do you generally agree with the recommendations in this Steindl report?

Fred Legg: I do because basically it agrees with what I had to say in August.

Stephanie Hansen: The Steindl report mentions that the house was constructed in four distinct phases. Do you agree with this and, if so, what were those phases from oldest to youngest?

Fred Legg: Yes, I would say it was done in four phases. There was the original building at the front and then there were three additions at the back which added a bathroom and a kitchen and some outhouse building which was the smallest of them and looks as though it was the later part.

Stephanie Hansen: I would like to go over the findings both in your report and your opinion of the specific findings in the Steindl report. Probably the best way to accomplish this is for us to do a walk through of the house. We will go through the slides. This is the property we have been talking about, 207 Union Street. Mr. Legg can you describe the outside features of the house?

Fred Legg: The outside has a covering of asbestos cement shingles which overlay the original – or I suspect the original – clapboard timber siding. The roof has also been replaced with asbestos cement shingles overlaying what was wooden shingles that are underneath and are visible from inside. The reason for the exterior may be twofold; they may have wanted to modernize the look – these asbestos cement shingles sometimes at some point were very popular. It also may have been to improve the waterproofing quality of the walls. The new shingles on the roof I am pretty certain were put there because the roof leaked badly because over the years the original timber shingles would have distorted. There is no other barrier between the outside elements and the inside of the house. There is a porch at the front and because it is actually on a concrete slab I would suspect was added at some later date.

Stephanie Hansen: How about the chimneys?

Fred Legg: The chimneys look as though they have been reconstructed at some point, particularly the one on the left.

Stephanie Hansen: You can use this one; it works?

Fred Legg: It should.

Stephanie Hansen: I saw it.

Fred Legg: It is up there and it won't come down. I don't know. Anyway, the one on the left here ...

Stephanie Hansen: Hit the red button.

Fred Legg: Hit the red button, okay. The one on the left looks as though it has been reconstructed as it was originally. This one here has a cement rendering on it. So it may have been that rather than reconstruct it and it became porous. They put a coating on to do that to make it waterproof.

Stephanie Hansen: Here is a photo of the back of the house.

Fred Legg: These are the additions that were put on at various stages during its life. Again, we have the asbestos shingles. The latter part here to the right has a different sort of siding on it and it was done just to be functional. The roofs are fairly flat so they probably had very poor drainage particularly where they intersected with each other as on the original house.

Stephanie Hansen: I would like to note for the record the Steindl report talks about the historic fabric of the building and states the windows and frames are a mixture of period and replacement windows with the addition of storm windows. The gutters are non-period. The front door has a non-period screen door. There are non-period asphalt shingles. The house has "very limited ornamentation and architectural appointments." Fred, did you see any elements of architectural value from the exterior of this building?

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

Fred Legg: Not from the appearance because the materials that are visible are of a much later date than the house itself. Stephanie Hansen: At this point, I would like to talk the homes on either side of 207. Can you describe some of the homes – maybe, the facades or whatnot?

Fred Legg: The one to the left has been maintained fairly well. It does have modern siding on it. The shutters – I have idea whether they are new or original or whether they are replacements. The windows are replicas and they look as though they are vinyl. I have not had a close look at them but from across the street they look as though they may be vinyl – regular sash windows. But the house has been maintained pretty well.

Stephanie Hansen: Here is from the other direction.

Fred Legg: The house to the right of the property we are discussing looks as though – it is now vacant but it certainly has new siding on it. I suspect the canopy is not original. I have some thoughts about the front also. It is a double front and was obviously a business of some description; I suspect that that was an add-on at some point.

Stephanie Hansen: I would like to note for the Commission that in the Steindl report on Page 15 it states “the surrounding community of residual properties is a mix of exterior facades that includes modern aluminum-type siding, asbestos-type shingles, and clapboards.”

Fred Legg: Yes, I would agree with that.

Stephanie Hansen: Fred, do you feel this building contributes significant architectural value to the surrounding area?

Fred Legg: No.

Stephanie Hansen: I would like to go on to a discussion of the foundation. What were your impressions of the foundation?

Fred Legg: This is a picture of the masonry walls to the right – the front right of the building – sorry, it is the right side of the building. As you can see, it looks as though it has had several repairs over its life. The mortar is disintegrating so it is obviously starting to fail and it is probably no longer water proof.

Stephanie Hansen: I think within your report it actually states “the building’s foundations brick work is in poor condition with the mortar joints having deteriorated to a point that they can easily be removed, therefore, not providing the bonding between the bricks that is required for stability and strength.” Why is the foundation deterioration a problem here?

Fred Legg: Well, obviously, the whole thing of any structure is the foundation. If the foundation is poor, then the rest of the building is in jeopardy.

Stephanie Hansen: Take a look at some of the other areas of the foundation. Are there other problems with masonry blocks within the foundation?

Fred Legg: Yes. This is the rear of the property and it is one of the latter portions that were erected. The masonry infill between the original piers is starting to disintegrate. The infill probably isn’t structural at this point although it probably does provide some support for the member which spans between the original brick piers. It is just in poor condition that is all. It is lack of maintenance. This is the rear left side of the building. Again, this is masonry infill that is starting to disintegrate. Mainly because the way the ground is sloped, the water is channeled toward the structure and eventually does cause some undermining of any footing.

Stephanie Hansen: I would like to note for the record that the masonry block failure is also mentioned on Page 4 of Steindl report. Fred, you mentioned in your letter that if the building is to be restored, a new foundation would be required. What would this involve?

Fred Legg: Well, you would need to support the superstructure sufficiently to enable you to remove the existing foundation and replace it with a new one.

Stephanie Hansen: So are you saying the building would need to be raised somehow?

Fred Legg: It would have to be raised slightly to take the weight off the existing foundation so it can be replaced.

Stephanie Hansen: Do you believe that the house could withstand this?

Fred Legg: In its present condition, no.

Stephanie Hansen: Okay, we would like to take a look at the chimneys. This is the rear chimney. Did you view the chimney at the rear of the house?

Fred Legg: Yes, I did.

Stephanie Hansen: What did you find?

Fred Legg: This chimney is very slim or slender as you can see and it obviously at some point had a problem with stability. Although you can’t see it very clearly, there is a metal strap very close to the ridge.

Stephanie Hansen: I believe in your report it states “the chimney to the rear of the building appears to be unstable and a restraining metal strap attached to the building has been added presumably to prevent complete collapse.”

Fred Legg: Yes.

Stephanie Hansen: I would also like to note for the record on Page 5 of the Steindl report it confirms that the chimney at the third build section is in poor condition and it appears to be pulling away from the house exterior wall. Fred, what was the condition of the other two chimneys in the first build section?

Fred Legg: From the exterior, it is very difficult to say, but once you get inside the house, the condition is noticeably poor and that will show up.

Stephanie Hansen: This is a terrible picture but I will get a better close up of it. Here is the top of that.

Fred Legg: As you can see, the plaster that surrounds the masonry is badly cracked and the ceiling is suffering from the ingress of water which is obviously causing the problems that are shown here. From that, I can only deduce that the masonry underneath is in poor condition.

Stephanie Hansen: Here is another one of the chimneys inside the house.

Fred Legg: Again, it is not so evident there but there obviously is considerable water damage that is coming through in that location. As you can see, the plaster – that is off the ceiling – which plaster is falling off the ceiling. That is falling of its own accord. Nobody has actually pulled at that.

Stephanie Hansen: I would like to note for the record in the Steindl report Page 5 also states that the two first build chimneys are in “poor condition with little or no flashing.” The Steindl report also mentions on Page 5 that there is “interior damage due to poor or non-existing flashing at the chimney locations.” Do you agree with that assessment?

Fred Legg: Yes.

Stephanie Hansen: All right, we will talk a little about the roof. Can you describe the condition of the roof?

Fred Legg: The roof is asbestos shingles. As I said, it is overlaying what was the original roof. It is difficult to know its condition but obviously it is still allowing moisture to get into the building somewhere – probably where the chimney is flashed. The rear portions – as I say – they are very flat which doesn’t sort of lend itself to good waterproofing. The intersections are not very well designed. As a consequence, they are deteriorating badly.

Stephanie Hansen: Are roof leaks a primary source of the deterioration of the house?

Fred Legg: I would say so, yes. There are other considerations as well but primarily the ingress of water.

Stephanie Hansen: I would like to note for the record the Steindl report on Pages 5 and 6 mentions that the various roof configurations have contributed to the roof leaks and that these leaks “have had a major effect on the structure and are the primary source of water damage and that they contribute to the foundation failure for the third and fourth build sections.” This time, I would like to go in the house and we are actually going into the first floor.

Fred Legg: This picture is taken from room on the left-hand side. The door in the middle is actually the front door. That is the entrance door off Main Street so we are in the room to the left. As you can see, the door frame is badly distorted. There is a crack that extends from the top left-hand corner there diagonally upwards which is suggesting that there is lack of support on that wall. I am not sure which door this is but ...

Stephanie Hansen: It is the same door.

Fred Legg: You can see it is not possible to close that door because of its distortion.

Stephanie Hansen: Why would the doors be out of square?

Fred Legg: Because there has been some settlement of the foundation or the support underneath that wall.

Stephanie Hansen: Okay. You mentioned the first floor construction has severe slopes in some areas suggesting a failing foundation. How severe were the slopes?

Fred Legg: There is a good two-inch slope across the floor from the exteriors to the internal walls that frame the staircase.

Stephanie Hansen: What causes this?

Fred Legg: It is lack of support underneath those walls either caused by deterioration of the foundation or the supporting girders underneath.

Stephanie Hansen: How prevalent was this? Was this just one room or one area?

Fred Legg: No, the whole center of the house is actually settled quite badly – both walls either side of the stair.

Stephanie Hansen: I would like to talk a little bit about the condition of the walls and the ceilings. Again, we are in the first section of the house, the first floor.

Fred Legg: Right. You can sort of see that there is considerable moisture evident in the ceilings. It has to have come from either the roof or through the walls. I don’t suspect it through the walls. I suspect it has come down from the roof and ultimately into the ceilings here.

Stephanie Hansen: This is a better picture of the walls.

Fred Legg: Yes, this is the other wall at the other side of the staircase. Again, it is impossible to close that door. This is the door from the right-hand front room through to the rear. Again, the condition of the walls – tremendous moisture.

Stephanie Hansen: Okay. What is your opinion of the light fixtures?

Fred Legg: I can only go from a visual thing. I am not an electrician so I don't know whether they are serviceable or not. But from exterior appearance, they seem quite good.

Stephanie Hansen: I would like to note for the record in the Steindl report on Page 7 it goes into detail about the wall and the ceiling framing. It states "the condition of these materials is questionable because of water leaking from the roof flashing failure. This water then travels to the second floor framing and into the first floor walls, ceilings, floor framing, and finally into the foundation. Hidden deterioration is also evident by observation of the plaster cracking and the sloping floors at the parlor and family rooms located on each side of the stair. The likely deterioration will be at the foundation sill plate and floor joints. Insect infestation damage is likely because of the infiltration of water from the roof." Lastly, regarding the floor framing, the Steindl report states that the parlor and family room walls show major signs of foundation, sill plate and floor joists deteriorations. These are the latest slides I have been showing to you. Fred, can you tell us what you observed in the dining room area – this is the second build?

Fred Legg: Yes, this is directly behind the original house as you walk through the right-hand front room to the rear. This is the addition that was added for the dining room. Again there is tremendous water damage.

Stephanie Hansen: This is the ceiling in the dining room?

Fred Legg: This is the ceiling but of course there is no second floor above that. That is directly underneath the roof.

Stephanie Hansen: Is that water leakage?

Fred Legg: Yes, it is and that is because of the poor roof.

Stephanie Hansen: Let's walk into the kitchen area. What is this?

Fred Legg: This is electric meter.

Stephanie Hansen: What is this?

Fred Legg: This is water damage again. So there is water leakage through whatever penetrations that course from there. This is evidence of movement again caused by water damage.

Stephanie Hansen: Is this the top of the door to the ceiling?

Fred Legg: This is the top of the door frame. Again, this is one of the light fittings up there.

Stephanie Hansen: There is a board on the ceiling. Why is there a board on the ceiling in the kitchen?

Fred Legg: I can only suspect that at some point the ceiling was starting to collapse and somebody put that up there in an attempt to prevent further damage.

Stephanie Hansen: Is that a crack?

Fred Legg: That is a crack there that is in the ceiling.

Stephanie Hansen: What would cause that?

Fred Legg: The movement. It is historically associated with the roof framing and water has gotten in there and caused some sort of deterioration of the timbers.

Stephanie Hansen: This is the room where the water heater is located and we know that there is a hole in the ceiling.

Fred Legg: Yes, there is a huge hole there. I suspect there is some sort of animal that has been living in there because there is a penetration through the wall there for the vent from water heater which has given it the opportunity to get in there. Then again, with the water coming in, it has just made it worse.

Stephanie Hansen: I would like to note within the Steindl report it mentions on Page 9 with respect to the second, third and fourth builds that "based on the interior ceiling water damage in the kitchen, bathroom and utility room, roof framing and sheeting deterioration is highly probable." At this point, we will go to the second floor. Fred, the second floor consists of two bedrooms and a walk-in closet. You mentioned in your report that areas of the second floor are also sloping. Can you describe this?

Fred Legg: Yes, again, because of the failure of the walls either side of the staircase, the second floor walls have followed it. That combined with roof problems up there have created these significant cracks in the corners here.

Stephanie Hansen: Are these the cracks you talking about?

Fred Legg: Yes, all the way up to the ceiling. The decoration has come off the wall anyway but ...

Stephanie Hansen: So there are two bedrooms upstairs?

Fred Legg: Yes, there are two bedrooms upstairs.

Stephanie Hansen: Are both the rooms sloping?

Fred Legg: Yes, they are both sloped towards the staircase.

Stephanie Hansen: How much of a slope are we talking about – a little bit?

Fred Legg: There is probably two inches of slope in the floors there.

Stephanie Hansen: What do we feel that the sloping was a result of?

Fred Legg: This is because of the failure at the first floor supports. It is the main supporting walls. Again, we are showing here that the doors do not close.

Stephanie Hansen: You mentioned in your report that the movement of the building is also evident by the door and window openings being out of square. In fact, none of the second story doors can be closed. How many, percentage-wise, of the doors and windows were out of square?

Fred Legg: I would say they were all out of square. There was 100% of distortion somewhere in all of them.

Stephanie Hansen: Did you try to shut the doors?

Fred Legg: Yes.

Stephanie Hansen: And when you did, what happened?

Fred Legg: The majority of them wouldn't close. It depended on which way the slope was. If the low side was at the hinge side, then the door wouldn't close. If the low side – I'm sorry. If the low side was at the hinge side, the door would probably close. If the low side was at the latch side, it would not.

Stephanie Hansen: You mentioned in your report that there is severe cracking in the plaster walls on the second floor.

Fred Legg: This is a close up of that corner again.

Stephanie Hansen: Here is the second floor.

Fred Legg: That is the chimney again.

Stephanie Hansen: The chimney – again, the second floor.

Fred Legg: It is the second floor. Again, you can see there has obviously been water penetration through the roof. How it has gotten there is indeterminate.

Stephanie Hansen: The chimney again.

Fred Legg: Yes, just backwards. We have seen that one before – again, the cracking in between the ceilings and the walls.

Stephanie Hansen: This is the last photo.

Fred Legg: Yes. Severe cracking there as you can see. Also, it is very evident – the sloping and the frame there that something is amiss.

Stephanie Hansen: I would like to note within the Steindl report on Page 9 it mentions that with respect to the first build that “based on the water damage to the second floor ceiling, it is very likely that the roof framing system has sustained considerable deterioration. On Page 10, it mentions the sloping parlor and bedroom floors and their walls and doors are due to the foundation failure and/or deterioration wood framings supporting the same.” Fred, at this point, what is your opinion of the overall structural integrity of the house?

Fred Legg: The initial thing is that it is very poor. There may be even more damage that is not visible without taking off the finishes either externally or internally to determine just how badly the frame has been affected by the moisture and the neglect over the 30 years that it has not been lived in.

Stephanie Hansen: Is this a structure you feel is able to be lifted from its foundation and moved?

Fred Legg: No, not without considerable internal bracing.

Stephanie Hansen: Section 9.7.4 of the Milton Town Zoning Ordinance states that an application for demolition can be approved if the structure has no historic or architectural significance, is noncontributing, or is in such a state of disrepair as to be a hazard or beyond reasonable efforts at rehabilitation or repair. In your opinion, does this application meet that threshold?

Fred Legg: Yes.

Stephanie Hansen: I would like to note for the record on Page 20 of the Steindl report that Steindl also agrees that “all sections of the house be demolished based on Section 4.9.7.4.” Steindl based their opinion on “their site visit” and observed the potentially high undiscovered water, insect and mold damage. Lastly, on Page 19 of the Steindl report, the report states that they, Steindl “believe the house may be considered beyond reasonable efforts at rehabilitation and restoration based on the lack of historic fabric remaining after repairs are made and, therefore, should be demolished.” Thank you, Mr. Legg.

Stephanie Hansen: At this time I would like to ask Mr. Ed Hall to come forward. Please state your name for the record please.

Ed Hall: My name is Ed Hall. I am with E. H. Custom Homes and Renovations.

Stephanie Hansen: What is your position with E. H. Custom Homes?

Ed Hall: I am the owner.

Stephanie Hansen: How long have you been with E. H. Custom Homes?

Ed Hall: 15 years.

Stephanie Hansen: What does E. H. Custom Homes do?

Ed Hall: We build and we renovate homes.

Stephanie Hansen: Have you built or renovated any homes in Milton?

Ed Hall: Yes.

Stephanie Hansen: Where would those be?

Ed Hall: Sussex Street.

Stephanie Hansen: Are you currently involved in any renovation projects?

Ed Hall: Several.

Stephanie Hansen: Did the applicants ever contact you about 207 Union Street?

Ed Hall: Yes, they did.

Stephanie Hansen: What did they ask you to do?

Ed Hall: They asked me to give them a quote on renovating the home.

Stephanie Hansen: Did you do that?

Ed Hall: Yes, maam.

Stephanie Hansen: Is your report the report that is located in Tab E of the exhibit book?

Ed Hall: That is correct.

Stephanie Hansen: You mentioned in your report that it is the recommendation of E. H. Custom Homes that this home be torn down and a new home be built in its place. Why did you say that?

Ed Hall: I have been renovating homes for 15 years and, you know, I wouldn't do \$800,000 worth of work if I didn't feel as though the house needed to be torn down. There is just a considerable amount of work with mold and water damage as has already been stated.

Stephanie Hansen: Did you view both the inside and the outside of the home?

Ed Hall: Yes, maam.

Stephanie Hansen: At this time I would like to take a close look at the cost of renovations that you have mentioned.

Let's turn to Page 8 of 10. This is the first breakdown of the numbers. This is called allowances. Can you tell us a little bit about what these numbers represent?

Ed Hall: Allowances are items that are given for the home based on the customers requests.

Stephanie Hansen: I would like to note that the total amount of allowances on this particular page – Page 8 of 10 – totals \$117,200.

Ed Hall: That is correct.

Stephanie Hansen: At this point I would like to turn to Page 9 of 10. It says at the top contract price. Are the allowable included in that contract price?

Ed Hall: No, they are not.

Stephanie Hansen: The allowances are not included?

Ed Hall: Oh, the allowances are, yes.

Stephanie Hansen: Can you tell us a little bit about how you came to the other numbers – the 46,055 and whatnot?

Ed Hall: The other items are the items you had addressed earlier on – the block work. The floor joists needed to be replaced, the crawl space is not deep enough – it does not meet current code and that is why it has termites – the rafters need to be replaced, the electricity needs to be replaced, there is mold issues, the porches need to be rebuilt, the HVAC needs to be upgraded and the fireplaces need to be torn down.

Stephanie Hansen: We have a total of \$745,000 for the cost of renovation?

Ed Hall: That is what I came up with, yes.

Stephanie Hansen: Is that for renovating it for a residential home?

Ed Hall: That is residential.

Stephanie Hansen: What is the one million twelve thousand dollars?

Ed Hall: That is just an estimate we came up with to meet the commercial codes without having an actual drawing or something from the Town of Milton to convey that.

Stephanie Hansen: All right, thank you very much.

Ed Hall: Thank you.

Stephanie Hansen: Lastly, I would like to ask Mr. Bruce Meara from the Electric Work, Inc. to come forward.

Stephanie Hansen: I promise you this will be short and painless. Please state your name.

Bruce Meara: My name is Bruce Meara.

Stephanie Hansen: What is your position with the Electric Work, Inc.?

Bruce Meara: I am the owner.

Stephanie Hansen: Are you a licensed electrician in the state of Delaware?

Bruce Meara: Yes, I am.

Stephanie Hansen: Did you inspect the electrical system at 207 Union Street?

Bruce Meara: Yes, I did.

Stephanie Hansen: Did you write the letter located at Tab D in the exhibit book?

Bruce Meara: Yes, I did.

Stephanie Hansen: What did you find when you inspected the home?

Bruce Meara: I found the whole system to be unserviceable. It was deteriorating. The grounding system was questionable and it was under amped. To do a house, it would not support a modern facility.

John Brady: Sir, I need you to speak into the microphone. It does not look like it is in the right recording level.

Stephanie Hansen: Let's try that one more time. What did you find when you did your inspection?

Bruce Meara: I found the whole system was completely unserviceable. The grounding was questionable. And there was not enough power there to support a modern facility.

Stephanie Hansen: What would happen if you flipped the lights on at this point?

Bruce Meara: I wouldn't trust it. I don't know what would happen at this point. The jacketing was deteriorated and off. I am not sure what would happen.

Stephanie Hansen: Do you think the whole system has to be replaced?

Bruce Meara: Yes, I do.

Stephanie Hansen: All right. Thank you very much. That is it. I would like to mention for the Council that when the Board of Adjustment considered this demolition permit in the past, their rationale for their previous denial of this permit was number one they felt that the building was structurally sound. I think that you heard tonight from not only Devon Design and Drafting which was the applicant's engineer and you have evidence from your own Town Engineer – or that was hired by the Town, Steindl Construction – that the building is not structurally sound. There were questions about the economic feasibility of renovation. We have heard from E. H. Custom Homes tonight that the costs to renovate this building for simply just residential would be \$745,000. Three quarters of a million dollars to renovate a home is probably – we would like to think is not economically feasible. There were also questions about the ability to move the house. That was brought up quite a bit with the Board of Adjustment. We have heard tonight from East Coast Structural Movers that it is not feasible to move. We have also heard from Devon Design that the structure would not survive being raised. You would have to raise it in order to move it and it would not be able to be raised to be moved. Other criteria that the Board of Adjustment was to consider was particularly the historic value of the building. We have heard from Devon Design that there is a minimal architectural value to the building and the Steindl report was even more clear on this issue. On Page 19, they felt the house may be considered beyond reasonable efforts at rehabilitation or restoration based on the lack of historic fabric remaining after repairs are made and therefore should be demolished. The second and third and fourth build sections are modern additions and they do not fit within the historic context of the first build. We recommend that the second, third, and fourth build be demolished and rebuilt based on their lack of historic significance to the first build. And again this is the Steindl report. Renovation of the first build section of the house may be possible but at a considerable financial investment for a house of limited historic significance. Lastly, it mentions on Page 10 about the foundation failure and states that the house may need to be jacked up to replace the deteriorated materials. Devon Design has reported that the renovation of the first build section would necessarily involve a new foundation but the building would have to be raised to accomplish this. They feel that the structure would not withstand it. In other words, we have in essence the cure would kill the patient. Here, we have an opportunity to address what has been a vacant property for 30 years in downtown Milton in the historic district. We have the opportunity to build something there where people will live and people will come to visit which is something that – at least we have been reading the paper – the Town of Milton is interested in doing with respect to bringing people to the downtown area. What we are asking for with the testimony you have heard tonight and with the exhibits you have received regarding this application, we would like to ask for your approval in issuing the demolition permit for the building located at 207 Union Street. We believe you can issue this approval in conformance with the requirements of the Milton Town Code. If there are any questions, we would be happy to address them.

Mayor Post: Yes, I have quite a few. I will start and anybody else can follow after that. First of all, the gentleman who is the contractor. I am just curious for it on record that on some house that small – don't know what the square footage is but probably about 1200 square footage – but this is probably about \$700 a square foot to renovate a house which intrigues me. You wrote a contract and I was wondering if it is typical when you write contract that you just put contract price is \$423,000.

Ed Hall: Is it typical?

Mayor Post: I am wondering where the breakout is for the \$423,000?

Ed Hall: I wasn't asked for a breakdown. That is just the number I came up with.

Mayor Post: Would you do that normally in a contract?

Ed Hall: This is a standard contract that I would use for every job.

Mayor Post: You would not tell the owner what they would be getting for that \$423,000?

Ed Hall: In the whole contract there is a list of specifications. If you would like to read it, it is in there.

Mayor Post: I understand that but it is not broken down.

Ed Hall: It is broken down in the structural ...

Mayor Post: But, not estimated costs. For example, if you were going to use the existing front door in the renovation project, it would be \$2,000 to fix the front door? Or, would it be to remove three small chimneys ...

Ed Hall: If you refer to your allowance page, there is an itemized allowance page for that.

Mayor Post: And, remove three chimneys – rather small chimneys – even if you would need to remove those – you are saying you would charge \$45,000 to remove them?

Ed Hall: We were asked to put the chimneys back. If we have to put them back – if you have ever had a masonry chimney built ... Have you ever had a masonry chimney or a masonry fireplace?

Mayor Post: I have had them removed and I have had them ... Let me tell you one thing. I have renovated probably about 30 homes in two states so I am very familiar with historic preservation and restoration. My brother has the Governor's Home here that he restored. He certainly has cracks in his floors and he certainly has doors that don't shut. So, I am very aware. I have been in numerous homes in my life. I have lived in an 18th century homes. I currently live in like a Sears bungalow from 1950's where I still don't have a door that shuts. Also, from the owner, when you talk about all these issues with the property, I am curious. When you went in before you bought it, weren't you concerned about the property – when you went in and purchased the property?

Jeff Hamer: No, actually I stated the last time we had a hearing that I bought it sight unseen.

Mayor Post: You didn't even walk into this property? Did you know it was in an historic district?

Jeff Hamer: I did know it was in an historic district. My wife has seen the house and I had not been in the house when we put the offer in.

Mayor Post: Were you aware it was on the National Register as well with this whole national district – not listed as an individual but as a district?

Jeff Hamer: I don't actually still believe it is in the National Register from my research but ...

Mayor Post: I did the National District with my brother and about five other residents. It is in the National Register. It is not listed as an individual. It is because Historical and Cultural Affairs of Dover came to us and found Milton to be so significant in the historic structures they requested this be done. Not only, did we only do a 125 when we originally did the district, they were so compelled to add another 75 homes such as the read building – and I would have to go in it. I have not been in it and I have not walked to the rear of the property.

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Jeff Hamer: Excuse me. You have not even seen the house we are discussing tonight?

Mayor Post: I have walked by it and I have looked at the photographs.

Jeff Hamer: But you haven't been in it?

Mayor Post: I have noticed that all the trim is original except on a lean-to in back which was probably done in the '40s or 50s. The property that you are questioning or the addition – I don't know if it is number 3 ...

Jeff Hamer: Pardon me for one second, but the second, third and fourth build on are not original from your engineer's report.

Mayor Post: I would love to Historical and Cultural Affairs come down here and inspect it because I am looking into the one part of the rear on the left side facing it. It looks to me like the old summer kitchen to the house which means that it would be pretty early to the home. Another thing that was noted in the National Register is that Milton, Delaware had some of the best concentration of intact summer kitchens in the state of Delaware. That to me does look like the original summer kitchen or it could have been a short addition. I know Mr. Draper thought it was built in the late, late, late 1880's.

Jeff Hamer: Or early 1900's.

Mayor Post: Or early 1900's.

Jeff Hamer: Actually, at our first hearing we had here in Town, they said they were not sure of any historical significance of the house. I am just quoting from the record which you have yourself.

Mayor Post: I don't know about historical significance but I said this the other day ...

Jeff Hamer: Well, that was from your own committee from the Town of Milton.

Mayor Post: Well, did I say it?

Jeff Hamer: No, but I am just saying from the minutes from before.

Mayor Post: I find them all historically significant. It doesn't just mean George Washington had to sleep there nor does it have to be a Governor's home because otherwise we would probably have to tear down 70% of the homes in the Town. This was an agricultural, very small, rural community. That is a typical farm structure type of home when the Town was growing out from the river. It is on the 1868 Beard's Atlas. What also makes this very significant – even though you may not think the history is important to anybody who has reviewed this property, it is very significant to the Town.

Jeff Hamer: That wasn't my words. That was the words of the Council.

Mayor Post: Well, I have heard everybody say that it wasn't contributing and that it made no significance to the District which I found kind of insulting.

Jeff Hamer: I would like to say they were not my words so please do not say that I said that.

Mayor Post: I just want to read the research the Historical Society did so I can read it into the record. "Reviewing the record of the deeds yielded the following information for 207 Union Street, Sussex County Tax Map and Parcel No. 2-35-14.19-173.00. An analysis of the deed records and existing map reveals there was a structure on the property by 1868. In interest of the light of Milton shipbuilding heritage, at least part of the property was known as the Lanyards lot – a lanyard being a cord or rope used to rig a seafaring vessel. From 1876 to 1884, the property was owned by John D.

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Conwell, who is a very famous shipbuilder here in Milton. Maybe they would not know him in New England or anywhere else but to our history John Conwell played a significant piece in the Town of Milton in our shipping heritage. John D. was the captain and master of the Schooner Mary G. Farman, one of Milton's most ill-fated vessels. In 1885, a fire in the hold of the schooner claimed the lives of all on board. A message written on a strip torn from an oilskin slicker and a sealed-in gin bottle was found washed ashore in Cape May, NJ when that vessel went down. Aboard the Mary G. Farman, a fire gaining in hold, can no longer ride or gale about a **tape**-long boat. God help us all. That was the message. On a 20th century deed, the property was also known as Elizabeth Conwell residence – wife of John D. Conwell. The lot transferred through the lands of William Ferry and on the same day in 1884 was made the property of Elizabeth Conwell which she lived until 1920. It goes on and on. It has everybody who lived in it or owned it from 1866 to currently you owning the property. Then it takes it off the Register. Obviously, that is where it pulled the description and all and where it is located in the historic district. Also, as I made notes, I don't any electrician could expect electric to work after 30 years. I would certainly be afraid if I purchased a home and knew it was 30 years vacant, that I would even want to try the electric. Termite and powder post beetles are probably in about every old home there is including my brother's, including my mother's home we sold next door sometimes more extensive than others. The nice thing about wood is that it can be replaced. Also, I feel with the engineer's report, there were a lot of opinions as well. To sit here and ask this engineer if he thought the house had any significance to the Town of Milton, I would think the only person who would know that would be people from the Town of Milton. We are looking at the importance of a district but that is why all of it is important. In a district, historical and cultural affairs – and they do not exclude even if the home is 1960. They feel that it is all contributing because it is about the heritage of the Town, the growth of the Town, and the changing architecture of the Town. It is all significant to the Town. The importance of this is this home is as old as it is. I made some notes. It does have the original shutters. It looks like the front of the home has the original windows to it. The trim is all original on the main part of the house. The doors are all original. Cracks in the plaster after 30 years of settlement doesn't necessarily have to be water damage although there definitely was some water damage in the property. That is obvious. But it also can just happen from settlement. When you only talk about a 2-inch drop in the house, that is nothing in an historic home or an old home because the interesting thing with a 2-inch drop, it is very easy – my brother's house has probably 15 jacks under the house. You can easily get somebody to go in and manually jack up the house. You have to do it slowly but you can easily bring it up the two inches. It might take a while but that is what will bring those doors up as well to be able to shut the doors. I made a note here the back chimney has no value anyway. It was probably added in 1920. It is not old at all. It is probably newer than 1920. The same way with the block. The older piece on the back set on piers originally. Obviously, to keep down from wind, they filled it in with a cement block because it was really cold floors. The house is contributing to the historic district of the Town. Has anybody from Historical and Cultural Affairs been through the house yet?

Stephanie Hansen: I don't believe so.

Jeff Hamer: No. Actually we were given three months to review the house. As you said yourself, you care deeply about the cultural history of this house. And you have said numerous times about your brother's house. It sounds like a wonderful house although it is not the house we are discussing this evening. But, you have yet to go into the house yourself and take a look at the house.

John Brady: Mr. Hamer, I have to advise the members of Council they can only rely on the evidence in this appeal hearing. They could not go in the house and perform their own inspection. The evidence is part of the record. I told them they could not go there. If there are any questions why they didn't go there, that is why.

Jeff Hamer: I wasn't aware of that but thank you, Mr. Brady. The first council did go through the house with us.

Mayor Post: The Town has had a policy and a history of condemning properties. Was this condemned when you purchased the property?

Jeff Hamer: No, it was not.

Mayor Post: It was not condemned. Have we had properties condemned recently in the last year?

John Brady: It is not a relevant issue.

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Mayor Post: I am curious because if it was not structurally safe, I don't understand why the Town didn't condemn it.

Stephanie Hansen: I specifically asked Mr. C. C. London – I believe – to come out to take a look at the house to see if it could be condemned. At that point, he said that the Town Council would be more interested in having their own structural engineer come out and take a look. That happened and that is what you have in the Steindl report.

Mayor Post: One structural report did say that number one – at a cost – could be saved.

Stephanie Hansen: That was the Steindl report.

Mayor Post: As any old home, it is always at a cost especially if it has not been renovated in 30 years. That is pretty much what I have to say. I find it contributing to the historic district and to the Town of Milton and to our heritage here.

Stephanie Hansen: The cost – I just want to reiterate – from E. H. Homes has been \$745,000. So the question would be is that a reasonable cost.

Mayor Post: I think it is an unrealistic estimate. I think it is an incorrect estimate.

????Councilwoman Martin-Brown: Taking Mr. Brady's advice and based on the evidence here, I can speak that my own home built in 1846 looks a lot just like what you have just shown us. We have contracted over the last three or four years to do work on the house that is included – we are rewiring, it has included new plumbing, it has included new roofing, none of the doors fit into the space. We have had to have plaster work done in the house, etc. With all due respect to E. H. Custom Homes figures – I served as contractor for all of that work done on the home from the metal roofs over the wood shakes and asbestos and all the way through. In looking at this figure, I came up with – based on the same exact living room, two rooms, center front door, original home structure – exactly the same kinds of doors you have in there, water damage up on the second floor in the corners where the leaking of the house had been compromised, I came up with a figure not of \$745,000 but about \$345,000 in terms of all the things that you have listed here. Now, we can quibble over the total of the work necessary to be done. But I was curious when I heard you say you had not been in the house before you purchased it. Were you at the closing?

Jeff Hamer: I was at the closing, yes, I was.

Councilwoman???? The reason I am asking is because in Delaware real estate property transactions it asks for termite disclosure.

Jeff Hamer: Yes, it does.

????Councilwoman Martin-Brown: Did you have a termite inspection done and were you aware of that finding when you went to closure?

Jeff Hamer: My wife had the termite inspection done. Yes, she did and she was aware of it.

????Councilwoman Martin-Brown: So you or she – are you speaking for both of you then or were you walled out from that transaction?

Jeff Hamer: No, I had not read the termite inspection but we did close on the house with the termite inspection in hand.

????Councilwoman Martin-Brown: So, you were aware of the termite problem which is endemic to everything in Town?

Jeff Hamer: Yes, and as Mr. Post said, I am experienced in my own renovations project at the calls. There is some level of termite damage in every house that is old in Sussex County. You experience that.

????Councilwoman Martin-Brown: Right

Jeff Hamer: If you are familiar with powder post beetles, they eat from the inside out. So a lot of times you go in there and they say you have powder post beetles, you say okay sure we will treat it and it won't be a problem. Let you go in and grab the wood and it crumbles – it crumbles like paper – and then you realize how extensive the damage is and how much more extensive the damage is.

???? Councilwoman Martin-Brown: Did you have a building engineer assess the property or did your wife prior to your purchasing it?

Jeff Hamer: Before the settlement, I did not.

???? Councilwoman Martin-Brown: Because that is something else that is pro forma if there is any question as to the age of a house or the integrity of a structure being compromised. I am just curious as to why you would even buy this property or you had not gone -- the term due diligence.

Jeff Hamer: I felt that it could be renovated first and then getting into the project a little bit further, and a little bit further and realizing what it was – every time I hired a professional, I was lead down a different path. The first time I came to a Council meeting here, they said well why don't you just fix the roof and stop the leak. It is kind of like when your engine blows up, you don't put a new belt on it if the engine throws a rod. You try to find out what the cause of the problem is and start from there. Every time we tried to find the cause or how to fix it to get further on this, it just led us down a different path. You know, getting the structural engineer was very important and then figuring out what we needed to do.

???? Councilwoman Martin-Brown: After you purchased it?

Jeff Hamer: Yes. Then after completing my own project, you find that you know there is a level to when people tell you that things can't be done that you should listen to professionals. At that point, it was time to listen to the professionals who said I recommend against this. And then the next professional, I recommend against this.

???? Councilwoman Martin-Brown: I think I get your point, Mr. Hamer, but you also get mine.

Jeff Hamer: I do; I so much do, yes. May I say, I like renovating things. I have renovated many houses and I have renovated historic buildings and I do care about historical significance. I gave the University of Delaware a year's dig on a property I owned where Captain John Avery lived down in Rehoboth. It was in the papers and you saw a lot of artifacts come up in the well heads. I let them dig there for a year on my property.

???? Councilwoman Martin-Brown: Just so you know, the Conwell name goes back in this town's history to 1720.

Mayor Post: So would you entertain someone else giving you an estimate on the house for renovating?

Jeff Hamer: At this point the structural engineers – both your structural engineer and ours have said

Mayor Post: No, ours doesn't say – one of them says that it can't be renovated – the main part in the front. I am just saying would you entertain another ...

Jeff Hamer: At your cost?

Mayor Post: Just have someone come in and get an estimate. That is, somebody who knows how to do restoration.

Jeff Hamer: At your ...

Mayor Post: I don't pay for anybody getting estimates for something they are going to make money on. No, I am talking about a contractor who specializes in preservation. I think there is one in town here that does. Anytime I have ever had

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an estimate – three years ago I had a major addition put on my house and I got three or four estimates. The second question is would you entertain someone from Historical and Cultural Affairs to come down and do a walkthrough on their opinion on the preservation of the house?

Jeff Hamer: I don't have any problem with that.

???? Councilwoman Martin-Brown: When you were considering buying this house, did you have a home inspection done before you bought it?

Jeff Hamer: No, we did not.

???? Councilwoman Martin-Brown: You have previous experience in Rehoboth and knowledge of expense – I think you said over \$600,000?

Jeff Hamer: Yes, we did.

???? Councilwoman Martin-Brown: So you wait until after you buy it to have a structural assessment done?

Jeff Hamer: There were several offers coming in at the time on the property.

???? Councilwoman Martin-Brown: Could you please tell me how much the structural assessment cost that this gentleman did?

Jeff Hamer: I do not remember off hand?

Fred Legg: I don't remember.

???? Councilwoman Martin-Brown: Was it below \$500?

Fred Legg: It was a little bit over \$500.

Jeff Hamer: My wife just said maybe around \$600.

Fred Legg: Yes, and then there was some supplementary stuff with that.

???? Councilwoman Martin-Brown: Back in 1997, when I bought my house, I paid about \$300 for a home inspection – maybe a little less – about \$275.

Jeff Hamer: Ten years later, around \$600.

???? Councilwoman Martin-Brown: Now, you find that you are either going to have to spend according to your estimates \$700,000 on this home or sell it for your advertised price for the land, \$229,000. It just boggles my mind that you didn't do the home inspection or the structural assessment before you purchased it. Thank you. That is all the questions I have.

Mayor Post: No one else has any questions.

John Brady: For purposes of the record, I want to make sure I have all the right documents. Your exhibit book had A through I and E was submitted after the books were done. I have inserted that into this one. The exhibits on behalf of the Town of Milton – did you get a copy of those?

Stephanie Hansen: No, I did not get anything.

John Brady: This package includes the appeal request letter from your client, a copy of the original application for the historic preservation, a copy of the decision that was appealed, and the minutes of the November 1, 2007. I thought they were forwarded to you at some point.

Stephanie Hansen: No, I have not received anything. Mr. Legg wanted to respond to a question that was asked earlier that was unanswered as to whether or not the Town had condemned the building recently. I believe he found some evidence that you actually have.

Fred Legg: 305 Mill Street was condemned. I don't whether that is in the historic ...

Mayor Post: It is in the historic, yes. It was the one the back had completely caved in and the front roof -- you could see all the way through the house.

Fred Legg: Sure, it was a masonry structure outside the original building. But, it was condemned?

Mayor Post: Yes.

Stephanie Hansen: I know a lot was made tonight about not going into to take a look at the building before hand. Even if that had happened and he decided to buy the property anyway, the two structural reports from the two different structural engineers would have come back the same thing. And, the cost to renovate the house had we gone to E. H. Custom Homes would have come back the same so I think the facts in that case you would have the same thing in front of you.

Mayor Post: But, I am not content with one estimate of renovation. We can sit here and argue that all night long but I would absolutely question anybody on that size of a house to claim it would cost pushing a million dollars to renovate it. And, I have some experience in renovations. If I saw three or four estimates in front of me, I would have felt a lot better. But to see one estimate, plus an estimate that just doesn't make any sense to me.

Stephanie Hansen: What do you think a reasonable amount would be?

Mayor Post: To renovate that house realistically – I am just going to throw it out there – I would say probably – and I am talking about doing a pretty nice job on it – I would say in the upper \$200,000.

Stephanie Hansen: Really?

Mayor Post: Well, I am familiar with restorations. I don't think anybody in the Town of Milton paid almost three-quarters of a million to renovate the biggest home in the Town of Milton – the biggest home in the Town of Milton and this is probably the smallest home or one of the smallest homes. Yes, I do question the amount of cost for renovation. Even to see a front porch of that size – 14 feet long – and \$24,000 to put a porch floor and to do some floor joists. I am just very questionable about the estimate and if I had three – especially people who had done old homes that knew restoration and not remodeling – there is a difference.

???? Councilwoman Martin-Brown: I question the descriptions. They are accurate descriptions but you see them in many of these old homes. My home, the doors are off by more than two inches and the floors – the house is settled. It is just something you expect to find in these homes – cracked plaster and settled foundations and walls out of plumb and that is why you buy wallpaper with flowers on it and not straight-lined patterns. That is why people cover plaster cracks with wall paper because that was part of the house and that was going to happen. Sometimes, as soon as you put the plaster in, it cracks – I have seen that. These are things that are common in these homes.

Mayor Post: Including cracks from the corner of the door jamb. It is not unusual. This is more than usual because it has been sitting for 30 years. You have to put it in context and nothing had changed. When it was purchased, everybody knew that was 30 years vacant.

John Brady: Mr. Mayor, I have a procedural question for Ms. Hansen. I apologize. I thought you had the packet with the transcript from below. Do you wish extra time to review this transcript to see if there are any other things you wish to address in the supplement along with any other questions that the Town has asked tonight? We can put this back on for a vote on the April 17 matter which is the next meeting. I thought the transcript had been sent to you and there may be some questions. There were statements that were in the transcript that you wish to see before you do any final closing. Or, if you want to respond to any of the questions posed to you by the Council members. I am trying to give you all the appropriate due process as required here. I don't want it left that you were surprised by this. I thought this had been forwarded to you when you forwarded your appeal packet and I apologize.

Stephanie Hansen: I would like to take just minute, if I could, to talk to the applicant about this.

John Brady: That is fine.

Stephanie Hansen: Mr. Brady, we would like to take the time and supplement the record and take a look through what you have. Maybe that will give us the opportunity to get the estimate that Mayor Post has asked for as well.

John Brady: Okay. Based on that request, I recommend that a motion be made to continue this to the April 17 meeting. We will put it first on the agenda so you won't have to wait all night.

Councilwoman Betts: I make a motion to continue this on the property at 207 Union Street until April 17 at 7:00 p.m.

Councilman Prettyman: Second.

Mayor Post: We have a motion and a second. Is there any discussion to the motion? [No discussion.] Motion carried.

John Brady: Ms. Hansen, for the record, if I could get copies of the photos because you reference them in your presentation and I just want to make sure the record is complete.

Stephanie Hansen: Yes, I will get them to you on a CD.

John Brady: Okay, on the 17th is fine.

e. Request for approval to revision of record plat for Heritage Creek Phase 2A and 2B.

Mike Coven: Good morning, I am Mike Coven with GMB. We are here for a revision to an original approval for Phase 2 of Heritage Creek. Part of what happened was in reaction to the current market and also they were trying to create a little more efficient phasing on the Phase 2 construction. In the original plans, these purple areas here, were identified as commercial retail. In the new plan, that has been downsized to just one area. The other areas that had been there are now dedicated open space or absorbed into the community area or into the lots themselves. Another change is the community center was here and it has now been placed in the back of this central core at the end of the boulevard – you can see that on the approach. I thought that was a better site for it and it put more lots in front of the subdivision.

Mayor Post: How many additional homes does that create?

Mike Coven: Actually, there are no additional lots.

Mayor Post: There are no additional homes; it is just getting rid of the commercial area?

Mike Coven: Right. Things shifted around a little bit and some of the lot sizes changed to take up the difference in space.

Mayor Post: Is the white building the manor house?

Mike Coven: That is the community center. No additional lots. There are still 425 lots. What was approved originally were Phase 1 and Phase 2. No changes at all have been made to Phase 1. Phase 2 has a block of lots that were not previously included in Phase 2 and the shifts we talked about. That is all we are asking for here.

Mayor Post: So, you just increased 2A?

Mike Coven: Yes, sir. Actually, the sub phases did not exist before and now we have 2A and 2B. All four purple areas were identified as commercial retail originally.

Mayor Post: Then you are going to have additional green space and shift the houses?

Mike Coven: Yes, sir. Still 425 total and no change in total density.

???? Councilwoman Abraham: I make a motion we approve the revision of record plat for Heritage Creek Phase 2A and 2B. Councilman Prettyman seconded the motion.

Mayor Post: We have a motion and it is seconded. Any more questions to the motion? Indirectly to this motion, I want to find out if Mr. Kerry is still an owner in this parcel?

Mike Coven: No, I don't believe he is. It is Ocean Atlantic now.

Mayor Post: All right.

Councilwoman Betts: Do you know when it changed hands?

Mike Coven: I don't know the date, no.

Councilwoman Betts: It has changed hands?

Mike Coven: It was fairly recently.

Mayor Post: Any questions? [No response] Roll call vote: Martin-Brown: yes; DUBY: yes; Hudson: yes; Prettyman: Yes; Abraham: Yes; Betts: Yes; Post: Yes. Motion carried.

Mike Coven: Thank you very much.

f. Review of grant application from Delaware Forest Service and determine the Town's portion of the match if the grant is filed.

Mayor Post: This needs to be moved to April 17.

Councilman Prettyman: I make a motion we move to April 17 the review of the grant application from Delaware Forest Service and determine the Town's portion of the match if the grant is filed.

Councilwoman Betts: Second.

Mayor Post: All in favor, say I. [All agreed.] Motion carried.

19. Adjournment: Motions made to adjourn at 12:25 a.m.