

**Milton Town Council Meeting  
Milton Library, 121 Union Street  
Monday, July 7, 2014, 6:30pm**

1. Call to Order – Mayor Jones

2. Moment of Silence

3. Pledge of Allegiance to the Flag

4. Roll Call – Mayor Jones

Vice Mayor Booros	Present
Councilman West	Present
Councilman Coté	Present
Councilwoman Parker-Selby	Present
Councilman Collier	Present
Mayor Jones	Present
Councilwoman Patterson	Absent

5. Public Participation

- Gary Smith, Co-President of the Milton Garden Club: First thing I just wanted to do is to remind everybody that this Saturday, the 12<sup>th</sup>, we have our annual garden tour, which will be featuring the houses on Union Street; we have ten gardens and three houses and it will begin at 9:00 and go until 3:00, so hopefully everybody in the audience members and the Mayor will be able to attend this year's tour. We're looking forward to it and we think it will bring a lot of tourism to the Town of Milton. The next item is something that we addressed at our meeting on the 19<sup>th</sup> and I'd like to read this and I've asked Kathryn Greig to hand out a copy of this letter. "Dear Mayor and Council Members. At the Milton Garden Club Meeting held on June 19, 2014, the club voted unanimously to go on the public record that we are concerned with the recent tree toppings of the Zelkova trees. An email sent to Mayor Jones dated June 11, 2014 from Kyle Hoyt, Urban and Community Forestry coordinator, Delaware Department of Agriculture, expresses the department's disapproval of the methods the Town of Milton undertook, ensuring the topping practice applied to the Zelkova trees, located on Federal and Union Streets. In this email, Mr. Hoyt described issues caused by extreme toppings, which result in rapid epidemic branch growth. This rapid growth will require the trees to be put on a regular pruning cycle, leading to a financial burden to the Town. Attached is the copy of the email to be included in the Town's public record. Based on a meeting at Town Hall on March 22<sup>nd</sup>, between town officials and the Board members of the Milton Garden Club, our understanding from the discussion was that the Town would consult with the Club on decisions concerning the Zelkova tree issues. The Club is disappointed that a follow-up meeting did not take place before the toppings occurred. The Milton Garden Club truly appreciates the opportunity to work with the Town on all its beautification efforts and looks forward to our continued partnership. Thank you."

Mayor Jones: Mr. Smith, thank you very much. I know that the Garden Club also

reached out to Kyle Hoyt in reference to getting a recommendation and I've read this over several times from him. I will make only one point and that was that during our meeting of March 22<sup>nd</sup>, it was discussed that any kind of long term or removal of those trees or a Comprehensive Plan for downtown would certainly come to the Garden Club, but I don't remember anything specifically about the trimming of the trees. So I just want to say that being in that meeting, that was not my understanding. But thank you very much.

- Rich Miller, Gristmill Drive: Good evening Council and participants. Realizing that these proceedings are always captured through the use of recorded minutes, I was wondering if the Council would consider, or if it's permitted, to videotape the proceedings so that an immediate record is available for people who can't be here, whether it's downloaded online; there's other technology available, that the proceedings could be viewed in their entirety without comment, but it would add to the knowledge base of what we do here at these meetings, other than just the recorded minutes. I'm not sure if there's any restrictions or other obstacles.  
Seth Thompson: There shouldn't be anything prohibiting that. Obviously there's nothing requiring it, but I don't believe there's anything prohibiting it, either.  
Richard Miller: Well with the use of a town web, we could in fact have a dedicated spot so that a viewer could click on a link and literally watch the meeting; in my case sometimes it does help my sleep.  
Vice Mayor Booros: Mr. Miller, on that note, I think it should be streamed live on the town website and available by videotape later.  
Richard Miller: I appreciate that. I don't want to spend the Town's money, but it's just an idea.  
Vice Mayor Booros: I don't think it's that big a deal and it should have been done a long time ago.  
Richard Miller: Thank you.
- Ed Harris, 305 Behringer Avenue: I wrote a letter to you all and I'm going to read because I kind of get very passionate and forget things I'm going to say when I come up here. I want to address something really important that up against the Town Council. I'm here to address a proposed Ordinance that permanently restricts water usage from May to September [and I realize it's on tonight's agenda]. This ordinance is not for conservation, it's for water restrictions. The ordinance is entitled Water Conservation, which is not at all what this ordinance is proposing. It's proposing permanent water restrictive use during our most active time outdoors, during the nice weather, May through September. As a resident of Milton for over 20 years, there have been less than a handful of times when the State or the Town has felt the need to limit water use, for odd/even days due to drought or problems with our water system. These issues were resolved or the drought broke and the restrictions were lifted. These restrictions only lasted a few days. If the Town needs to have water conservation plan to apply for funding a grant, they need to look into public education on water saving techniques and provide conservation incentives, rather than restricting a commodity that we pay for use. Other towns throughout the State have done this. No other town has a permanent water restriction in use on odd/even days. The easiest and most effective way to suggest conservation would simply be to educate the resident's through our water bills. Such

extreme measures as permanent water restrictions have a repercussion on the Town's economy and marketing capabilities, as well as our property values. People purposely avoid restricted communities, either for their businesses or resident's and this adversely affects our real estate prices. Jane Doe, for instance, learns that we have water restrictions. She comes to the Town. She decides she wants to have her kid in the kiddie pool; well guess what. It's 90° out. You can't do it, because we have a water restriction. She wants to water her geranium. You can't do it. I think this is part of our civil rights. When we moved into Milton along with every other citizen, we assumed that the water would be supplied, if paid for; without limitations for daily use; unless, of course, there was a crisis situation as in a drought or a mechanical failure. If there is a water crisis in this town, as what you're basically saying there is, at this time warranting restrictions, then we need to stop all additional strains on the water system and stop any new development or project; put a moratorium on any growth of projects. If we can't supply daily water to our existing resident's, then no new projects should commence; also tax or surcharge any major user in the Town, instead of making the existing resident's pay the price for poor planning. If the Town's water supply is in critical state, then we need to inform townspeople at a public forum to address the issue; not vote on it after three readings at Town Council Meetings. This is just another, to me, and what I'm afraid of, is this is just another knee jerk reaction to a town's committee to make a proposal that they feel deemed as necessary, or has it been thoroughly researched, because this is going to have permanent repercussions on the Town. My big fear is, as it is with the fencing, which by the way, let me tell ya', that fencing went up. It is not providing security because you can walk around it from the maintenance yard; you can crawl underneath it over here okay; nobody's followed through with it and the trees, which have been butchered, which basically now you have horizontal growth, rather than vertical growth and it's going to be a non-spot battle to keep them off the buildings, okay? My fear is people who are unqualified in making decisions and suggestions to you all and you all sit there and rely upon each other and committee's to give you information that is not reliable or informed decisions, because I've sat here and asked you questions. I've had responses. Resident's that I know of, have gone into the Town Hall and asked questions. You've given them what I call winging it. You tell them oh maybe this, maybe that, or what you think. These decisions aren't based on a fact. This get you in trouble like we are required to have a fence. That the trees were diseased, which they never were diseased. We heard that at a meeting. All this is not fact. This is what you feel. This causes the town problems. Anyway. One other thing I want to say here. I've always thought that Milton and marketing Milton, we could use the slogan "Milton is Greener" as our brand. With all the hard work the Garden Club does to make this town beautiful and the resident's who take pride in their gardens and the great economic resource that attracts billion of dollars spent on eco-tourism and the love for beautiful gardens and nature, we should be encouraging the greening of the town, adding to our economic value and tourism appeal. Now we have a handful of people who have made a decision that we should have a desert environment, by not watering. They've butchered the trees and we're going to have brown lawn and dead flowers from the lack of water; or people who are refraining from planting gardens because they can't water their garden. This is just one more legacy that you all are going to leave the Town. Thank you.

Mayor Jones: Mr. Harris, if you would stand up again. I took your email that was sent out. It was actually dated the 6<sup>th</sup> and I didn't get a copy of your actual letter, so I put this into the record through Mrs. Rogers, as your comment on the water ordinance, but I want to explain a couple of things to you about how this came about. Your email indicates if there is a water crisis, as this ordinance has us believe, I do not ever remember a single word spoken about a water crisis. This came about, only because the Water Committee made the recommendation to Council. The first time it came to Council, it came with a recommendation that the water restriction be in place all twelve months of the year. So the Council thought that was far too strict. We went back to only capacity and as a matter of fact, it also kind of rode the time that the tax appeals were being taken into consideration, to consider solar energy, green energy; we heard from members at those appeals about sustainability, about the recommendation for a solar farm, so water conservation just kind of rode that same time. Believe me, the Council has heard your comments and again, I made this a part of the record for you.

Ed Harris: I will respond to this. Absolutely green energy and absolutely solar energy; those are personal choices. Our water is our given right when we move into this town to use. You're taking away our given right when we come into this town to use the water. We did not purchase into this town, buy into a restricted community, as I said, fine; let's go odd/even days. Personally, I'm going to tell you, because frankly I believe whatever I say to you, you're going to be just the opposite, just because I'm saying it. Whether you have it or not, I'm going to pull the house away from my odd member across the street and water my garden, so it doesn't really affect me. I'm talking about the citizens of this town's rights, as residents. They did not buy into this town with restrictions. You're dictating that our properties are now coming with restrictions. Talk to any real estate agent, ask them whether restricted communities do detract from people moving into them. People may cognitive choices not to move into a restricted communities. Furthermore, I want to know what expert on these committee's and what expert's just up there, deems their vote or their right to tell us we can't use our water; unless there is a state mandated crisis or a water restrictions. Explain that to me. You're basically making decisions for my life. I want to know what makes you qualified.

Mayor Jones: You asked and I also got an email asking for some participation between the Mayor and Council and the public, so we're going to try to do that a little bit this evening.

Ed Harris: Can I say one other thing?

Mayor Jones: Wait a minute, Mr. Thompson's going to answer your question.

Seth Thompson: Just from a legal perspective the Charter clearly identifies the Council's ability to regulate water use. Currently there isn't some recognized right to water your lawn on a daily basis. That's not something that's wrapped up in our civil rights.

Ed Harris: I'm aware of that, I talked to my attorney about it. Absolutely.

Seth Thompson: But of course we could have a policy discussion, because that's really what this is. I want people to understand that from the legal framework, the Council has the authority to regulate water use; you're not doing anything that's unconstitutional, but obviously the Town needs to have that discussion.

Ed Harris: I agree with you 100%. You know what my attorney said, he's one of your colleagues, he said what stupid person would present that in front of the Town Council,

when you don't have a water crisis situation? As a matter of fact, there's lawyers online and I posted it online and I have 30 different attorney's say what kind of town do you live in where a Town Council would post restrictions when you don't need water restrictions. It's the same thing why you put a fence up, when it doesn't provide any security; you just put it up anyway. It's the same purpose.

Mayor Jones: Thank you.

Seth Thompson: And just one other point of clarification, again; the ordinance makes clear that it's not over-riding your existing water emergency law, so this is something that's separate from that.

- Dr. John Reese: I'm a local chiropractor here in town and have the honor of coming here to be the President of the Lion's Club here in town. My purpose for coming here tonight is to talk about the proposed changes for the Clock. A brief history on this. My understanding was the Clock originally was owned by Sussex Trust and was purchased by the Lion's Club when Sussex Trust merged with Wilmington Bank, back I don't know how many years ago. It originally sat where the current Police Department is, I believe and it was moved to the present site where it is now. In 1995, the Lion's Club paid to have the Clock reworked and refurbished and at that time, it was dedicated to Lion's Club Members from the past. Unfortunately, as many service organizations around the area, the Lion's Club is shrinking and our power both in membership and in funds is nothing as it was year's ago. So unfortunately we do not have the funds at this time to refurbish the Clock. We definitely understand, though, the Town's desire to do so and understand that it needs to be repaired or replaced and due to the dating and age on it, replacement probably makes more sense at this time. As we don't have the funds to do that for the town, what would we ask in lieu of that, is the ability to place a plaque, a small bronze plaque on whatever replacement the Town comes up with; basically just to honor the Lion's Club members over the years who have served in the club. That club, I believe, dates back to 1939. We're still doing hundreds of eye exams at the local elementary schools here in town every year and I think we're up to 65 or 66 wheelchair ramps now that have been built and in the surrounding area for people who are in need of that and unable to build it on themselves. We definitely are striving to continue to serve the Town as best we can, but as I said, our funds at this time are limited. So, thank you very much for your time.

Mayor Jones: Thank you Dr. Reese. I just have a quick question. Someone from the table might be able to answer or Dr. Reese may have to answer. Who exactly has ownership of that clock at this time.

Councilman Collier: The Town of Milton.

Mayor Jones: So at this point, the disabled clock could be removed, being the town's property if we chose not to refurbish it. I think we talked about \$10,000, \$20,000? Okay, thank you.

Dr. John Reese: We had a board meeting the other night and the board of the Milton Lion's Club is in complete agreement with that. We don't have any objections to that at all.

Mayor Jones: Thank you.

- Jeff Dailey, 211 Gristmill Drive: Mayor, with all due respect and I have to say this publicly, I think you're mincing words. If, in fact, the Garden Club had a meeting with

you and their concern was for rumors in regards to the trees being diseased were not appropriate for the downtown, then they should have been consulted before the tree topping took place. For you to believe that that wasn't discussed at that earlier March meeting, I'm sorry, but you're mincing words, you're interpreting wrongly and you should have spoken to the Garden Club. I'm very concerned. I'm not going to discuss any of these ordinances or any of the agenda items; what I am going to say is that every person sitting at this table has my utmost respect. You are the ones who stepped up and ran for office. You're in place to serve the public, but, I think we are coming up with problem after problem, because we fail to realize one thing in particular. Small towns, such as ours, are the closest thing we have to what is called a Direct Democracy. In other words, it is not only feasible, but it is to the benefit of our town's health and well being and progress to involve as many citizens as possible and consult as many citizens as possible and get feedback from as many citizens as possible, on as many issues as warrant such input from the public. Yes, we are an elected representative model, that's called a Republic, but what is happening is, you folks are making decisions, without input from the public and repeatedly, repeatedly, it's as if you are fiddling and fiddling and Rome is burning. We have seen this with prior administrations. There are such things as surveys. There are fun surveys, the Cape Gazette would love to run a survey, that indicated how many people would like to have a vintage clock vs. a time/temperature sign. It gives us positive exposure. Bona fide public hearings with experts available to the public and instead of the public just speaking at this little mini public forum kind of thing, we need to have a bona fide public hearings where people can get up and speak and when there's an input from the public, if what I say raises a question with someone out there, my friend Elizabeth, she comes up and comments and you all benefit from all of that input. Wouldn't you like to cast a vote, knowing where the majority of the town stands on any given issue? That would be a luxury that you are not affording yourselves. Any one of these ordinances could be put to survey, in any number of ways, and you would know where the public stands and this is a very large group tonight, but we know that there are important things discussed with four, five, ten people in the audience. That doesn't serve us well. It just doesn't. Please. Thank you for your service. You have my endorsement, but I can't see this happening time and time again. I just can't. I can't take it. I'm getting too old for this stuff. Thank you very much.

Mayor Jones: Again, and Council may feel free to chime in. You were actually one of the people here who hoped that we had some public participation between Mayor and Council and the public tonight, so I have drawn some of the emails that I have received; many of them were from you. I cannot speak for the other members of Council, but I think it is time that we talk about this survey idea. You, I hope understand how cumbersome municipal government is already in the number of hoops you have to jump through to get the job done. It is my personal opinion that to hinder that process further, by what you continue to call public hearings, which are noticed meetings far and above regular Town Council Meetings, where the issues are on the agenda, to be discussed, just like tonight. You even indicate that perhaps these extra hearings the Vice Mayor could run them for some important meetings; you recommended a survey on the clock; on the Planning and Zoning issue before us tonight and the water ordinance and I sense that if we had managed to get the... time wise, the fence also would have called in your

opinion, for a survey. I don't know how I can make you understand that that is just not feasible to get the job done. We do rely... I rely on a number of the comments that I receive, not only through numerous emails, but phone calls and the streets. I can't name a time when anything I voted on was a personal agenda item. I listen to the public. I have to say that it is my hope that other member of Council are doing the same thing as I am doing here. Transparency in this administration, I think has been as strong as any to my recent recollection. You have, at least, enjoyed an unfettered time to address Council and Mayor over and over, during some meetings and there are times when that information is extremely valuable and I do not mind taking the extra time. But these things were not always allowed previously and we don't need to look back at that. I do not know how to satisfy your doubts about transparency, other than to say this Council conducts only in public. I know of no opportunity that things are decided on and then brought to you and just introduced to you, so the rest of Council is welcome to say that to you.

Jeff Dailey: I have to respond. I'm not naïve. I know that there are many times when this Council discusses things, moves things forward with outside data and the public may get the feeling they're left behind a bit, but from your bully pulpit, you have the opportunity to catch us up. In other word, in a small town such as ours, the closest thing we have to direct democracy it is highly conceivable that this public can know almost as much as what's in your packet at the start of every meeting and I know a woman who is sitting in this room who has asked time and time again for a packet to be placed online and in the library and to the best of my knowledge, it's not happening. When there are items that come in the last 48-72 hours, that someone in Town Hall can mark the packet and you from your bully pulpit can say, citizens this isn't in the packet, because it came in late. That's all that I'm asking for. You're telling me that something is unwieldy before it's been tried. There are inventive, creative ways to tap into this retirement community which represents so much expertise and all of the people who are raising their families in Milton, who deserve to be heard on every issue that is possible. I'm not looking to revamp government, but once upon a time in a galaxy far, far away I wrote a Letter to the Editor and the name of the town I lived in was Paradise Lost/Paradise Found. At the end of that one little letter I wrote, big lie, it said Milton you can do so much better. That's all I'm asking for. Thank you.

Mayor Jones: Thank you.

Councilwoman Parker-Selby: I'd like to speak if I could, basically as a person who has lived here most of my life and Mr. Dailey I certainly respect your conversations and your emails. I don't hear from everyone and I don't meet with the members here; we don't get to meet. I'm on the road a lot, everybody knows that. So I listen to what the people say when I come to here. I read the materials so that I can make a sound decision. There's a history here in Milton that I don't know about, but I've heard about it since I've been on this Council, but I don't life in the past on history and hearsay. I like to hear it straight up and everyone who knows me, knows that I want a face to face conversations, but I keep hearing you people up here, whatever and I'm thinking to myself I can't sit here any longer and take the fact that I'm being accused of something I really don't know what you're talking about, some of these historical things that have built up to where we are now, which I think is absolutely horrible as a citizen and taxpayer. I want to see us

do better, because if you recall, I ran on community unity and Milton evidently has not been unified for several years, as I'm finding out sitting here listening and it is time for us to do some things I guess differently from what you've been through. I can't speak for everyone up here, only myself, but I'm kind of getting a little bit too old to sit here and hear arguing and distasteful conversations against each other, when we're all one town and that's something I think we all need to get in our heads and stop saying it and it's been said by several citizens who I've heard come up here. We are one town and that's how we've got to start thinking and acting and doing an I know Mr. Harris. I've known him for years here and I like that Milton is Greener, maybe we could put on this new sign or something. There's a lot of talent in this town and I'm very well aware of that and I know others are here, as well. But I don't want to keep hearing us being accused of not being honest and so forth with you all, because that's how I've made it through this life, by being real and up front and everyone who knows me in the State of Delaware, the Governor and everybody else, knows that's how Estelle is. So I don't want to keep sitting here being accused of not doing this and not doing that. We have these meetings and I hear the same thing over and over and over. My conversation with everyone is, what are we, as a town, going to do about getting ourselves unified and make sure we communicate with each other better. Let's come up and see a little more at home and small towns; I don't see people smiling since I've been here; not a lot of people smile when they come to these meetings and I'm thinking, how can you get anything done if you're mad with yourself and everything around you and I guess I'm saying we need to pay attention to what each other can do for each other. I'm not going to keep sitting here being accused of things I don't even know what you're talking about. So I want to say that, because it's kind of getting me burning and as I said, I'm a little bit too old for this, as well. I would like to see us and I don't agree with all of these things either, like the water and what have you and I have expressed that on some of the \_\_\_\_\_, like punishing people for using... I've expressed it. I've been the only vote sometimes. No one tells me what to do and say and they never have and I'm not going to start doing it now. Mayor Jones has a tough plate here and we need to really... she's doing a good job, I really feel she is, not coming to all your past meetings and so forth, but we have got to work together. I'm not on a soap box, but we've got to... the word is together and unity and that's what I want to go down in history, for trying to help unify my town and everyone in this town, because we're all brothers and sisters in this thing together.

- Denise Suthard, 309 Union Street: I guess I'm just following up on the tree issue. One morning I'm driving down Union Street and I notice the trees are beginning to cascade and fountain; the next morning I come down and they are butchered. I want to know who made the decision to do that. I also want to know when the trees are going to be replaced in front of the new restaurant, Mixed Grill, or whatever it is; the insurance I heard you got the insurance money. Why aren't the trees there? I didn't pay for bushes, I paid for trees in my taxes and that was agreed upon, the tree scape. My other question is, understanding that the trees were butchered, what are you going to do about that, because I understand that it's going to cost us more money to maintain those trees, as they are; then it is to just replace them and put the tree back. Thank you.

Mayor Jones: If you want to come back, I'll see if we can answer something for you. The decision to cut the trees and the timing of the cutting of the trees came from our Public

Works Department. As far as their being butchered, I couldn't agree more. That was a very severe cut for this time of the year. Ultimately that responsibility falls on...

Denise Suthard: Not just for the time of the year, Marion.

Mayor Jones: Ultimately that responsibility falls on me. As far as the care of those, according to this report, what it will do is require a more concise tree trimming...

Denise Suthard: They will never be the tree that they are. They will never fountain.

Mayor Jones: It will require a more precise schedule of trimming the trees.

Denise Suthard: Not going to happen.

Mayor Jones: I'm just telling you what is exactly in the report and what Mr. Smith read this evening, so as far as the removal of the trees, nothing will be done... nothing, until we can come to the town with some type of a Comprehensive Plan for our downtown, for it's landscaping and more importantly...

Denise Suthard: That was on the Comprehensive Plan and landscaping and voted on.

Mayor Jones: More importantly, the number one issue facing us in downtown right now, is flood abatement.

Denise Suthard: I agree, but we can still be beautiful while you address the flooding issue.

Mayor Jones: I don't argue that point.

Denise Suthard: And what happened to the two trees that never got planted over there?

Mayor Jones: Well when I first took office I contacted Mr. Post and for a long time those trees were not replaced, even after the insurance money had been received. I made an observation and discussed it with Mr. Post, that if you put trees in that particular place, it would block the view of Federal Street looking up the street.

Denise Suthard: That was your decision?

Mayor Jones: Yes. Yes it was and I discussed it with Mr. Post and the decision was to put in a pair of witch hazel trees, which were early spring bloomers.

Denise Suthard: Even though the original plan called for trees there?

Mayor Jones: If the original plans called for trees there, then trees maybe ought to have been replaced earlier than I took it upon myself to get some kind of shrubbery there. If I put the wrong pieces in there, and it goes against the Comprehensive Plan, then again, I am responsible.

Denise Suthard: I'm not looking for the person to whip. I would just like the trees put there.

Mayor Jones: Well right now there are no immediate plans to haul out the bushes that were put in there and replace them with trees.

Denise Suthard: Okay.

Mayor Jones: Yes, and as Mr. Thompson said, that is an issue when it comes to the downtown in our Comprehensive Plan Review coming up and ongoing.

- John Oates, 115 Arch Street: I have a concern with the water conservation ordinance, 2014 and I do agree with Mr. Harris, however, if this ordinance comes to a vote by the Council, I would like the Council to consider a little flexibility in the language and I'll give an example of what I'm referring to. As a Milton property owner, I just installed a considerable amount of sod, which I'm told by people that know a lot more about it than I do, that it's necessary to be watered at least twice a day, for 10-14 days. So I would quite probably lose my sod, which led me to think about what the developer's might

think. Every home that they are building, obviously they would be installing sod. They would face the same issues that I do and any other homeowner, so what I'm asking for is consideration of a little more flexibility in the language. Thank you.

Mayor Jones: Thank you.

- Bonnie Charnock, 116 Arch Street: I'm a new resident. Just to expound and follow up on what the other people spoke about the water ordinance, is that there is a little misconception, at least on my part, when reading it. It talks about conservation, but it really does very little to elaborate on what conservative efforts we might make to really conserve water, other than restricting use. Basically, I came from a town where we went through something very similar, but we had a water crisis and in that instance we encouraged people to conserve. In doing that, if they put a water saving toilet in their house, a 3-1/2 gallon they may have formerly had and then they went to a 1-1/2 gallon. They got \$100 rebate. We encouraged the buying of rain barrels, which the Town supplied to the resident's. So I think, clearly and concisely, if we really talk about conservation, maybe we don't have to talk about restriction. That's basically all I had to say.

Mayor Jones: Thank you.

- Frank Steiner, North Spinnaker Avenue, Shipbuilder's Village: I've been a homeowner there for the last seven years. I've lived there eight years. My concern... I'm not aware of a lot of stuff that's going on here in Milton. This is the first meeting I've ever attended and I'm finding out a lot. I'm concerned about the children; we all have children and they play, but lately as a homeowner for the first time, probably in the last few months, I've noticed that a lot of children are doing some unruly things, especially on my street and all I'm here to do is request from the police, that they possibly patrol; maybe late at night, like 8:30 on, because there's a lot of activity, a lot of kids, doing a lot of mischievous stuff. That's all I'm here to request. I want to thank you very much.
- Virginia Weeks, 119 Clifton Street: I'm here to address this "shall" to "may" thing that they want to do with the zoning ordinance. I've been on Land Use Boards for 20 years, both here and where I used to live. One of the things that is of prime importance when you're planning your town, is offering a many opportunities to people who are affected by what changes you are proposing, for them to be able to express their fears, their concerns, their likes, their wants. The town tonight is going to bring back something they voted not to do; which is in our ordinance it states that any change to the zoning ordinance shall; that is a legal term almost meaning there's no wiggle room; shall be sent to Planning and Zoning for a recommendation. A recommendation. Planning and Zoning can't pass it. Think of this as Congress. This is Congress. Planning and Zoning is committee. Before Congress does it, it goes to Committee to hear about it and to talk about it and comes back with ideas. Same thing. They want to do away with that and they want to make it, instead of "shall", they want to make it "may", which would mean that at the discretion of the Congress, they may or may not send it to Planning and Zoning. That means that if somebody came in and wanted to open a business next door to you, or to change the zoning in the area next to you, Planning and Zoning may or may not get that to listen to or to give their recommendation, based on their years and years of service and their designing of the Comprehensive Plan. We're not going to do that anymore, we're going to leave it up to Congress to decide when and what we should get

a recommendation on. This is wrong, folks. It's wrong. It's wrong in your heart. As it is, we don't have enough public participation in this town. When you go to Planning and Zoning or you go to the Board of Adjustment or you go to the Historic Preservation Commission, it should be the norm in this town, that the Chairman says does anybody want to speak for this?

Denise Suthard: I vote no.

Virginia Weeks: Or does anybody want to speak against this ordinance or does anybody want to speak to it? They should be giving you the opportunity to think and to voice and they're not doing that. I would ask that you ask them tonight not to do that and I'm going to ask that, by asking you, is there anybody in this house in favor of what they want to propose? Two. Thank you.

Mayor Jones: Thank you. Mr. Steiner, just as a note, would you just make sure that the Chief of Police has your exact address before you leave here this evening? Thank you.

Frank Steiner: Yes I will.

- Jim Walu, 30263 East Mill Run, Milton: Toward the end of my list and I fully endorse what Virginia Weeks just had to say. We need as many levels of citizen participation before decisions are made. John Oates said if this comes to a vote tonight, my recommendation is deny it. The majority should deny this conservation action. It is not conservation. I think this town probably needs a conservation act and I think the conservation act would promote low flow toilets in older homes in Milton; water saving devices on showers. I think it would approve a will for Mr. James Parker, for his auto wash. Why are we wasting treated town water to wash cars in this town? It's a waste of our money. It's a waste of our efforts. There's no reason that he should be using treated water to wash cars. That would certainly conserve the amount of water this town uses. I see no reason why this town objects to agricultural wells in some of our newer communities, especially, where they have to water their lawns, because that's the nature of that community. I think that agricultural wells, yes they'll reduce the amount of money the town gets, if they're not using the water treated by the town, but why are we wasting treated water on our lawns in our communities. It doesn't make any sense to me. I think our Project Coordinator, a task for him might be to search for grants. DNREC may have them. Somebody may have them, to provide low flow shower heads, low flow toilets, where we have three gallon toilets in our older houses in Milton. Let's conserve water. If people conserve water, their water bills are going to go down. It's a positive thing for the homeowner, as well. I think that type of a proposal by the town would satisfy DNREC in terms of water conservation policy. I don't know that we've ever used more water than we're allowed because we were pumping water out and measuring it. The flow valve was not working, so water was coming back, so we may not have been pumping as much water a DNREC thinks or that we reported to DNREC. So we may not have even had a problem in the past. If we have a crisis, like we have with one of the water towers, certainly you're going to ask people to conserve; and it could be restricted and that would be an emergency situation, but to do it for three or four months of the year, as a compromise to doing the twelve months; I don't think it works. I don't know who Jeff Dailey was referring to, but I was one of the people that also was promoted over the years that the full packet that the Council gets, a week ahead of these meetings, also be available to the citizens; a copy in the library, a copy at Town Hall, so that we

can sit down and really understand what issues are before you. That would be transparency; that would be public participation and I think it would be very important if we were able to do this. One final thing I would like to comment on, when Mayor Jones was on the Town Council, she took it upon herself to review the citizen comments of the previous meeting and she prepared a document that was on the back table in terms of what the response was to the citizen comments, as much as there was a response by the sitting Council, or Town at that point. We haven't seen that in she's taken over as Mayor and I can understand she doesn't have time to do that anymore. It's an impossible task and I think that someone on the Council, probably the Vice Mayor, could be charged with this task of...

Vice Mayor Booros: I write it all down, that's for damn sure. I got it here. I know what everyone of you have said.

Jim Walu: What the comment are that the citizens have made and what kind of a response there is. I know there's one issue that has come up, I brought it up, I know other people have brought it up, is what was the fault with the base of the water tower in Shipbuilder's? Was it the concrete? Was it the design? Was it the specifications for the concrete? Someone is responsible for failing concrete?

Vice Mayor Booros: A builder who filed bankruptcy years ago and he's long gone.

Jim Walu: The builder built that?

Vice Mayor Booros: The builder put the foundation in.

Jim Walu: What was wrong with it?

Vice Mayor Booros: It was the same concrete he used for the side...

Jim Walu: The concrete was not up to specs?

Vice Mayor Booros: Apparently that was it?

Jim Walu: Why isn't the concrete company held responsible? They have insurance.

Seth Thompson: I think we're well beyond the six year Statute of Repose, is really the problem.

Jim Walu: But this is an issue that's been brought up before the Council and the citizens have never been given a response, as to what happened; what was the background. We need to know those things. That's why we bring issues before the Council, is that at some point we might get...

Vice Mayor Booros: I just heard this recently, so I don't know if they just found it out or a report that was done...

Seth Thompson: From the Solicitor's perspective, I went back and looked at the Code to see if this would fall within one of the exceptions of the Statute of Repose and I informed the Mayor, orally, that I thought the Statute of Repose...

Jim Walu: I'm sorry, I don't follow this. You went back to the Code?

Seth Thompson: The Delaware Code. The way it works is most people are familiar with a Statute of Limitations, so in personal injury it's very often one or two years. For contracts it's normally three or four years. Sometimes that Statute of Limitations can get, what they say "told", meaning a classic example is you have surgery and the doctor leaves a sponge in you and you don't know and it take several years to figure out that's the problem. Well obviously your normal Statute of Limitations would have run over those two years, but that's the Statute of Limitations is "told" it only starts to run under the Discovery Rule, when a reasonable person would have discovered it. Your State

Legislature has made the determination that that would be a deterrent for builder's, for engineer's, for architect's so there's a six year Statute of Repose, meaning even if you couldn't have discovered it up until 5-1/2 years later, if you don't file before that sixth year, you're going to be barred by the Statute of Repose. It generally applies to construction.

Jim Walu: And does that start running when you find out that the concrete is failing?

Seth Thompson: No, the six years starts from when the job is performed.

Jim Walu: The day they put the concrete in the ground?

Seth Thompson: That's right.

Jim Walu: That doesn't make any sense.

Seth Thompson: You've got to talk to your State Senator and State Representative.

Jim Walu: I'll talk to Steve about this.

Mayor Jones: Jim, your time is up, but I want to ask Mrs. Rogers, just how close are we getting to having... I see lots of packages for tonight's meeting on the back table when I arrived. It's up on the website. We have a copy in Town Hall. Do we have a copy in the library?

Kristy Rogers: No.

Mayor Jones: It's the only piece that we do not have as far as Council packages available to the public.

Kristy Rogers: There's one copy that I keep in Town Hall, so I can certainly make copies if anyone comes in that's interested for that packet.

Mayor Jones: Thank you. Thank you Mr. Walu.

Jim Walu: Can I make a follow-up comment on if you take conservation thing up for a vote tonight and if a majority decide to go along with it, I think you need to take the criminal penalties out of it. I think that's ridiculous, but I think you just ought to vote it down and start all over. One last thing I'd like to say...

Mayor Jones: Mr. Walu, thank you very much, you'll need to sit down so we can go on with someone else.

Jim Walu: I just wanted...

Mayor Jones: Mr. Walu, please take your seat.

Councilman Collier: Can I comment to Mr. Walu?

Jim Walu: Conner Filicko at the theater...

Councilman Collier: Mr. Walu, I appreciate your concern about the availability of information being acted on by Council and I've been in this town for quite some time now and no matter what administration was in place at that time, I've always been able to go to Town Hall and question any item on the agenda, in advance of the meeting and that information was always made available to me, so first of all you've got to make an effort and that's all I can say, but it's always been made available if you go and you ask the question.

Jim Walu: Councilman Collier if the package that you have is available for any citizen, then they will have a basis to ask further questions.

Seth Thompson: Council, if I could just clear up one point that was raised. First of all, I also want to thank Council for their indulgence in allowing me to miss the last public hearing. I appreciate that. I did receive an email from Kristy with comments that hopefully I could address. One item that's really a legal issue, I understand that people

think of it as a criminal matter. Delaware Courts have often defined a municipal violation as a civil matter with criminal elements; that it occupies some space between a civil matter and what we would normally think of as a crime; unless it's somehow identified as a crime. So, when it says violation, you're violating a Town Ordinance. I wouldn't go so far as to say you've committed a crime in the traditional sense of breaking something in our Title XI of the State Code. So I understand that maybe that distinction is lost on people, but maybe another analogy would be a DNREC violation, something like that, so a State Agency violation; that's more comparable to a violation of a municipal ordinance.

Kristy Rogers: I have no more public participation, but I do have two emails, both speaking against the water ordinance as written.

Mayor Jones: Are they the two that I gave you? Councilman Collier also forwarded one to you from Mrs. Kilby.

Kristy Rogers: That's correct. And the one from another citizen that spoke earlier.

Mayor Jones: So that is a total of, because I also submitted one from Mill Street today. Thank you.

Seth Thompson: And that actually brings up an important point, too. Obviously the Council Members don't talk to each other, but that doesn't prevent citizens from talking to them and them from talking to you; so if there's any misconception out there that members of the public can't talk to their elected representatives, we should dispel that now. If you have a topic, whether it's something coming up on an agenda, something you heard at a Council Meeting, you're more than able to speak directly with your elected representatives. I don't know if people have the misconception that they can only speak at public hearings; but that's not the case. You should be able to communicate with your elected representatives. (Public participation ended at 7:30 p.m.)

6. Additions or Corrections to the Agenda

Mayor Jones: Are there any additions or corrections to the agenda? I do have a couple of comments here. Under New Business a., the bond reduction. I'd like to remove that. We did have a meeting last Monday and there will be a revised request that comes from that. Also, Item 14.e., the appointment to Planning and Zoning Commission. I would also entertain a motion to remove that for this evening.

7. Agenda Approval

Councilman Collier: Motion to approve the agenda with the removals, as noted.

Councilman West: I'll second that.

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

8. Presentation and Approval of Minutes: March 13, 2014

Mayor Jones: You have March 13<sup>th</sup> minutes in front of you.

Councilwoman Parker-Selby: I move that the minutes be accepted as presented.

Councilman Coté: Second.

Mayor Jones: Any other discussion on these minutes? All in favor say aye. Opposed. Motion carried.

9. Mayor's Report

Mayor Jones: First thing I want to let you know is that we have two Comprehensive Plan meetings this month. I'm going to look to Mr. Goodinson to confirm that. I know that you have a regular Planning and Zoning meeting on the 15<sup>th</sup>, but I wasn't sure if you were able to expand that one into a Comprehensive Plan meeting, yet, but I do have the 19<sup>th</sup>. That's a Saturday at 10:30 here in the library. You'll be speaking about the Town Center and then again on Monday, the 28<sup>th</sup>, the Comprehensive Plan, I do not have a time. I'm going to assume it's the standard 6:30 here at library.

Barry Goodinson: It's at 6:30.

Mayor Jones: And the information that will be provided that evening in discussion will be on the River and if I'm not mistaken, there is an attempt to get someone here who's going to talk about sea level rise, that night. So the 19<sup>th</sup> at 10:30 am here in the library and the 28<sup>th</sup> at 6:30 pm here in the library are the most recent Comprehensive Plan meetings that are coming your way to be discussed.

10. Discussion of Written Committee Reports

Mayor Jones: Before I get onto the Committee Meetings, I do want to say in reference to the context, much of the information that comes is repetitive. Some of the information that arrives is less than helpful in that it is not accurate. For example, I could ask Mr. Dailey who he meant when he encourages folks to go to the Historic Preservation Commission meetings, which is something I would encourage a lot of people to go to; it contained information that perhaps a store owner downtown had not gone for the approval of windows that were put in. So, only assuming the location of that, I made some inquiries today from our Project Coordinator...

Jeff Dailey: Madame Mayor, I didn't name any business...

Mayor Jones: No, I said you didn't... I said you didn't name any business.

Jeff Dailey: I didn't name any business and I would prefer that you not.

Mayor Jones: And I can't name anything Mr. Dailey. I don't have the name.

Jeff Dailey: Good. Let's not speculate on what business it is.

Mayor Jones: I'm just saying I did some research...

Jeff Dailey: I don't need this now.

Mayor Jones: Mr. Dailey, this is not about you. It's about information that is released...

Jeff Dailey: My reputation that you're impugning. Don't put information that I can provide before the public. Thank you.

Mayor Jones: This is an email that you sent only encouraging people to attend this Commission's meeting. I don't disagree. I would encourage people.

Jeff Dailey: I concur with you. We need to go to as many meetings, as possible.

Mayor Jones: I agree. I agree. I agree, but in the case of the shops downtown who have come recently, I just did research to let everybody know that they had... we don't even know we're talking about two of the same people, that the business downtown did come before Historic Preservation for approval. That's all my point is. Okay?

Jeff Dailey: Thank you.

Mayor Jones: But that information is helpful. It also dealt with the look at the property, which is now known as Modern Mixture for it's vent...

Jeff Dailey: I don't know the name of it.

Mayor Jones: I'm saying this. This was information that I requested this morning from the

Project Coordinator, in reference to the exhaust fan, we do know that that business is coming back before Historic Preservation for the modest handrail, flower planters that were put in and they are on the agenda to be heard, I believe it's tomorrow evening. So that information is available to anybody who wants to attend those meetings, too. The only other thing I wanted to mention that at a Comprehensive Plan meeting on the 25<sup>th</sup>, there were a number of comments made, a good deal of it had to do with communication and increased information. I can see that our placeholder for written committee reports on these agendas has not been filled and not been satisfied with a good deal of information. Tonight you will see far more reports that were presented from the Committee's. There are still some that are missing. Each time Planning and Zoning meets outside the Comprehensive Plan issue, which is an ongoing thing, when they hear applications; Historic Preservation; Board of Adjustment; all of these committee's should be reporting under this category and I will do all that I can to make sure that those reports become more available and are submitted in a more timely manner. So hopefully in your packages you will find more information in regards to that. Tonight we have your Finance Committee, Charter and Ordinance Review Committee, Election Committee, Streets and Sidewalks and that's it for tonight. Were there any comments or questions on any of these reports?

Councilman Collier: Do you need a motion to accept them?

Mayor Jones: A motion to accept them, but I do want to particularly point out that there are a number of very valuable things that have been recommended by the Finance Committee and I do know that as we enter into the budget time, we will need to keep these notes very close and refer back to them. Other than that, I have no comment on these.

Councilman Collier: Move to accept the Committee Reports, as presented.

Councilwoman Parker-Selby: Second.

Mayor Jones: Any discussion on these reports? All in favor say aye. Opposed. Motion carried.

#### 11. Department Reports: Planning & Code, Police, Public Works

Mayor Jones: Looking at the Project Coordinator and Code Enforcer.

Councilman Coté: I have a quick question for Mr. Davis. In his detailed report he mentions two different possible dates for the incorporation of the Town, that he had a discussion about that, a review about that.

Robin Davis: Yes, the Town had received an email from an individual that I think was from Purdue University, actually; was doing some research, not just on the Town; I think one of the sections when she looked on our website, under the History portion of our website, had the date of incorporation as 1965. Actually, after doing research it was actually 1865, so I had to go back...

Councilman Coté: Thank you.

Mayor Jones: Anything else on the Code Enforcement and Project Coordinator report?

Councilman Collier: I have a question for Mr. Davis. Mr. Davis, it is my understanding that the property out next to Mr. Harris's antique shop is in the process of going to condemnation. Is that correct?

Robin Davis: Yes, that is correct. The Code Enforcement Officer did send a letter out to the property owner, noting that he did condemn the property, giving her a certain amount of time to have it either the items corrected or demolish the building. If I'm not mistaken, the time is up on that. He has spoken with the owner. The owner did inform him that she was not able to afford to have it demolished. It's going to be probably up to the Town to make a decision; now that we're

moving forward, whether the Town's going to pay to have that demolished or not.

Councilman Collier: So then we can expect that report to come forward in the near future then?

Robin Davis: I think he has forwarded some sort of request to Mrs. Rogers, if I'm not mistaken.

Councilman Collier: Alright, fine. Do you know if he's been looking into a property on Collins Street. I believe the owner's name is Prettyman.

Robin Davis: Yes, that's another one. Actually it doesn't help at the present time, but actually there might be a buyer for that property.

Councilman Collier: I know that it's posted For Sale. I didn't know if it was the entire parcel or the adjoining lot.

Robin Davis: It's all of it. It's a house and an empty lot.

Councilman Collier: Very good, thank you.

Seth Thompson: Mrs. Rogers, you might want to look for any place where the town would fall in terms of lien priority; if it does demo the structure, that might have a big determination if there's a mortgage out there that's going to cover all the proceeds; that's probably a different analysis, then if there aren't any liens against the property, then you'd end up in first position.

Mayor Jones: Mr. Davis, I know that we've talked previously in reference to the length of the grass, before a notice goes out. Did you and Mr. Trotta bring any recommendations forward. I know we talked about the Charter and Ordinance Review Group; but have you considered writing that up and bringing that request for a change of grass height to the Council for an amendment to that ordinance?

Robin Davis: It's scheduled to be heard on the 24<sup>th</sup>.

Mayor Jones: Okay and also is there anything being prepared for the quarterly cycling of the water bill to go out, reminding folks about grass violations and other Code Enforcement issues?

Robin Davis: Yes, Mr. Trotta is supposed to be writing up a little report to be put in with the water bill.

Mayor Jones: Alright, thank you. Hearing nothing else, the police report. Chief, I do notice that the alarms are high again and I do know that you prepared that paperwork for me. Are you working with Mr. Thompson in any capacity about the nuisance of some of these alarms?

Chief Phillips: We're trying to get something set up here, so we can start taking appropriate action, yes.

Mayor Jones: Okay, thank you.

Councilman Collier: Chief, I have a question for you? You have on the back of your report a news release and it's dated May and I see these two women in this thing about town all the time, now. Has this been resolved, or is this still an open complaint? If you don't have it.

Chief Phillips: I do, they were also arrested some time after that, yes.

Councilman Collier: Okay, so then this has been satisfied?

Chief Phillips: Yes.

Councilman Collier: Because I just wondered because I see them quite frequently; they come to the Park on Wednesday evenings and everything else; so I just wanted to know whether I needed to make a phone call or \_\_\_\_\_.

Chief Phillips: I appreciate that. They are locals, that's for sure.

Councilman Collier: Alright, thank you.

Mayor Jones: Mr. Wingo, I have no written committee report for the Water Committee. Do you have anything to report on your department reports, under Public Works?

Greg Wingo: Not at this time.

Mayor Jones: Thank you. Any other comments on department reports?

12. Finance Report and Revenue/Expenditures Report

Councilman Coté: As of the report we have, which is into May, we still have funds available according to the report and in the bank; but we need to be, just as a reminder, most of it's all collected anyway at this point, so because we get the biggest piece of the revenue, which are the taxes, and that's billed in January, it goes on as income and then we collect it. We're in good shape there and in the Water Department we're also in good shape. On General Fund expenditures, we are at about 60% of the annual budget, as of May, and that would be, if everything were done, we would be at 67%, so we could be a little bit ahead, except for the biggest one, like the water loan; that wouldn't affect this; so we're at about 60% as opposed to budgeted for 67%. We're in reasonably good shape.

Councilman Collier: I have several questions and these are all on the Budget Transaction Audit Trail and some of these are for you, Chief. Can you explain to me why the Police Department needs to purchase Quick Books Software? I think we have an accounting package that the Town's invested a considerable sum in; do we need a secondary accounting software for your department?

Chief Phillips: Yes, Sir. We've use that. We've had it for a long time. We use it to keep track of grants and also keep track of our budget. It just keeps the checks and balances between us and Town Hall. We've actually made copies and shared them with Town Hall if there's been a discrepancy.

Councilman Collier: Alright, well this is a recent expenditure, so I'm assuming that you just recently bought this, or is this an upgraded version from what you already had in place?

Chief Phillips: At this time, I'm not sure.

Councilman Coté: How much is it Councilman Collier?

Councilman Collier: It's \$139.99, it's on page 7 of the Budget Transaction Audit Trail.

Councilman Coté: That's it. That could probably be a license, an annual license fee.

Councilman Collier: That's fine. I'm just curious. I have another expenditure. We spent \$248.08 on entrance mats. I'm not sure what that means

Chief Phillips: It's actually the mats that are weather-proofed for the front and back door and other places around the building. The others wore out and they needed to be replaced after about 5-6 years of wear and tear.

Councilman Collier: Alright, that's fine. I was just curious. I actually have two more questions for you, because these are all in your line. One of them is, I see that you purchased freon, obviously for an air conditioner in one of the vehicles? Are our officers servicing those themselves?

Chief Phillips: I believe they got it to have it serviced, so we could save some money that way, but I'm not positive on that.

Councilman Collier: Okay, so they purchased it and supplied it to your vendor that actually did the work. Is that correct?

Chief Phillips: That's my understanding, but I could double-check on that.

Councilman Collier: Okay, just curious. This is the last one. I noticed that we have a charge here for an IP Camera. What is an IP Camera?

Chief Phillips: What does that deal with? Do you know exactly which one it is?

Councilman Collier: It's under the line that also covers cell phone bills.

Chief Phillips: Okay. At this time, I'd rather not talk about that in a public forum, but we could talk about it later.

Councilman Collier: Alright. Have we ever established a camera policy? I know that was requested some time ago.

Chief Phillips: To the best of my knowledge, yes.

Councilman Collier: There is a policy? Okay.

Chief Phillips: At this time, I believe it is, but we need to hear back from Seth and we've been back and forth awhile back; but I'm not positive how concrete it is.

Councilman Collier: Alright, thank you. And the last question I guess, Mrs. Rogers you can answer this and this may just be in the wrong line. I noticed under, I'm not even sure what department it is now, but under the line Printing and Postage you have a charge for \$148.49 and the item is listed as ice. Is that in the proper place, or is that a typo?

Kristy Rogers: What page?

Councilman Collier: It's on page 12. It's under the general heading of Printing and Postage. That's why I asked. 4-01-650-6430.

Kristy Rogers: These were for the certified letters that the Code Department sends out; it's just a typo when the bill was entered and we can't change it after it's been posted.

Councilman Collier: Okay, that's what that is. Alright, thank you very much. That's all the questions I have on the Budget Transaction Audit Trail.

Councilwoman Parker-Selby: I had one question in reference to Temporary Labor; I guess Kristy, you take care of that? The Temporary Labor, is this the staffing of the receptionist we have now, is that who that is, on page 2?

Kristy Rogers: Yes.

Councilwoman Parker-Selby: And the amounts transpiring on different, what is that, depending on the hours worked? Thank you.

Kristy Rogers: Yes. She averages 20 hours a week.

Councilwoman Parker-Selby: Twenty a week. Thank you.

Mayor Jones: Anymore comments on the Finance Report and Revenue/Expenditures Report? Nothing?

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

- a. Replacement of Downtown Clock – including approval of the style and expenditure  
Mayor Jones: Now, this very well might have been removed. We do not have any new information from our Public Works in reference to this, however, I have received two pieces of email which I think both are quite handy. One comes from our new person on the Historic Preservation Commission, her name is Barbara Wagner and she just wants us to be aware that she believes the design of the clock needs to be reviewed by the Historic Preservation Commission in accordance with the Town Code. Very specific and under purpose and intent, I will read this. It's very brief. "The District includes, but is not limited to unimproved lands and most of Town's historic structures. The District's architectural value and setting is shaped by the interaction and focus of many and varied structures. Accordingly, within this district, demolition, new construction or additions, signs and most alterations are all subject to review by the Historic Preservation Commission. The review is based on the Secretary of the United States Department of the Interior Standards for Rehabilitation and Guidelines for rehabilitating historic

buildings.” So that's very good information. I think that once we might be able to come up with some models for recommendation, Historic Preservation seems like the perfect place that something like that would be reviewed before it was adopted. Also, from a member of the community, Mr. Filicko, reached out to a company called Electric Time in reference to getting some samples of clocks. In addition, they were asked about whether or not there were any specific grants to cover clocks like this. They were not aware of that; but they indicate that they might have some fund raising ideas. So that's another avenue to pursue, as we continue with our work on the clock. So right now I have nothing new to add, but I think we have a decided direction.

Seth Thompson: Well there is in your zoning ordinance a general exception for public buildings and public property. With that said, you certainly can use your Historic Preservation Commission. I know that often I hear citizens don't like those general exceptions that municipalities give themselves from their own Zoning Code, so it certainly makes a lot of sense if you want to use your Historic Preservation Commission as anybody else would need to, basically.

Councilman Collier: How are we going to address the request from the Lion's Club about the placement of a plaque once we replace the clock? Is that going to be something, as well, that's going to have to go to the Historic Preservation Commission for their approval, or is that just something that as a council we can say okay, or what? I need to know.

Vice Mayor Booros: Is this for them to make a recommendation back to Council, or for their approval.

Councilman Collier: They've made a request that they would like consideration in allowing them to place a plaque at the new clock.

Vice Mayor Booros: I understand that. What I'm talking about is this for Historic Preservation; this whole thing about turning it over to Historic Preservation for the to approve at that level; or for them to make a recommendation to the Council?

Seth Thompson: Vice Mayor Booros, that's actually a very important point. You're absolutely right. Historic Preservation normally gives approval...

Vice Mayor Booros: They make their own approvals and it will never come back to this Council again, so unless the general public shows up at that Historic Preservation meeting, they're going to do what they're going to do.

Seth Thompson: I think the issue... It's a little bit different situation than some other property owner coming into Historic Preservation Commission, because the Town would essentially be the applicant here. I think it has to come...

Vice Mayor Booros: We're asking the for their assistance for their recommendation; not for them to approve the clock.

Seth Thompson: And the bottom line is the Council holds the purse strings, so in terms of spending money and figuring out what to do with public property, that authority ultimately rests with Council, so it is slightly different than the normal process for Historic Preservation, that's right.

Vice Mayor Booros: So make sure if that's where you're sending it, that's the reason it's there.

Robin Davis: If I may, we went through this year's ago when we put the signs on the new Town Hall. The signs were picked out by the Mayor and Council; I'm not sure who;

they just went before the Historic Preservation Commission to get approval for them; not to make a recommendation on what type of sign, so I would say that would probably fall under the same thing. The Council would make a decision on the clock that they would like there. Then it would just go before the board to get their approval for that clock.

Vice Mayor Booros: But I thought we were asking for their recommendation on the clock, because they are the Historic Preservation Commission.

Mayor Jones: My point would be to come up with a design that we agree upon and then allow Historic Preservation to look at that, as it applies to our standards. As far as a recommendation back, my opinion would be the Council was looking for Historic Preservation's blessing that that would be something that would fit in the Historic District of Town Center.

Councilwoman Parker-Selby: I'd like to think if this goes to the Historic Preservation Commission that we definitely emphasize the fact that the Lion's Club would like to have a plaque on whatever is decided. The ones we saw recently, some pictures, they seem to have a very historic look. Are those pictures now in the hands of the Historic Preservation Commission?

Mayor Jones: No, they are not. No. All those pictures and other samples will be coming back to the Council to consider further. We just do not have anything new at this time.

Councilwoman Parker-Selby: Alright.

Robin Davis: Madame Mayor, as a second point too, I am not quite sure if that parcel that the clock is now on, is even in the Historic District; so it might not be a requirement that it has to go before them, but it might just be a good idea because it is surrounding the district.

Mayor Jones: Alright that's good information. Thank you.

Councilwoman Parker-Selby: Very good information.

Mayor Jones: So that we don't just spin wheels, I would be happy to make some copies of the clocks that came in from Electric Time; they're pretty standard and of course range considerably. I do not believe I have the fee scale that goes along with this, just the pictures.

Vice Mayor Booros: But I would say, Marion, in that regard, there are other companies out there that make the same clock at the price that we're quoting to the staff. So before anybody makes a decision on spending a dime, I want to see quotes from numerous companies.

Mayor Jones: Absolutely. Can we get a timeline when we might expect that.

Greg Wingo: I'm hoping to actually all of the quotes before the next Town Council meeting. I didn't have all of them together. I haven't received them all, so I didn't want to bring a partial list.

Councilman Coté: Would that be for the next July meeting, or the August meeting?

Greg Wingo: August meeting.

Mayor Jones: Then I will see that you also have these and they can become a part of Council's package for the clock information.

- b. An Ordinance to amend the Town Code – establishing Water Conservation practices (third reading)

Councilman Collier: Madame Mayor, I did my homework, like I like to do, and in reading and reviewing this proposed ordinance, I find that most of these issues are covered already in our current Code under Water Emergencies and this is kind of, other than defining a specific time period; this is kind of reinventing the wheel. I'd like to move that we set this on the table; never to rise again and encourage the Council to consider a Resolution promoting water conservation within the Town.

Councilwoman Parker-Selby: I second the motion.

Mayor Jones: Is there any further discussion? The only question I have Councilman Collier is in what method would you like to encourage the public to participate in water conservation?

Councilman Collier: That's where we develop a Resolution defining those ideas and terms.

Vice Mayor Booros: I think the words are there already, in this Ordinance, but to encourage people to conserve and not wash their cars or to...

Councilman Collier: I think there were ideas brought tonight from the public that go beyond just what's within this; not only practices, but devices.

Vice Mayor Booros: But also we send a lot of crap out in our water bills and there's no reason why we don't send things out in our water bill to do with conservation.

Councilman Collier: I agree wholeheartedly, but we have to develop...

Vice Mayor Booros: There's no reason that when we get the water bill and there's nothing in there and just as a background, this all came back because a few year's ago we were told that we were going to run out of water if we didn't build a new water tower for \$3.5 million; then we find out later on that it's because we didn't necessarily need a new water tower tomorrow, but we need the ability to pump more water sometimes out of the ground and they had turned us down. One of the reasons was, we had no conservation policy and I think that's what began this process two or three years ago and it's taken that long to get to this point. I think that the State probably with a Resolution, but also we have to be proactive in making sure that no water bill goes out without some pamphlet from the State or the County or somebody on water conservation; letting people know what's available out there.

Councilman Collier: I agree and that's basically what I'm recommending.

Vice Mayor Booros: That should satisfy the State and I know we have probably already satisfied the State, because we've replaced meters and well heads and everything else and we're not pumping quite as much water as we thought we were pumping.

Councilman Collier: I think in large that problem was two-fold and the biggest portion of it was not necessarily that we didn't have a conservation ordinance; it was that we had unaccounted for water.

Vice Mayor Booros: But gallons per person was what they were looking at; the number of citizens in the Town based on the census vs. on the amount of water that we were pulling out of the ground. But part of the letter was that we didn't have a conservation program in place and we need one; whether it's voluntary... we need something. But this is not it.

Mayor Jones: We have a motion and a second on the table to make this a Resolution to promote conservation of water in the Town of Milton. Is there any further discussion?

Councilman Coté: I just had one small thing to add and I agree that I don't know what

the water people had in mind was for us to have an ordinance, or for us to have a program. We should have a program for conservation and one of the items that we didn't use last year, was making available to the townspeople some supplies; either making the available or at some small fee; and the items that we're suggested were dye tablets to check water flows in the toilet; faucet aerators and my favorite is called a toilet tummy. You just put it in and you don't have to replace the toilet, it just uses less water and...

Councilman Collier: In my house, that's called a brick.

Councilman West: It will not be as written here, this conservation.

Mayor Jones: No, a Resolution will not be written in the same terms as an ordinance.

Councilman West: But we're not going to vote on this.

Mayor Jones: Actually, we are going to vote on this, exactly, but...

Councilman Collier: We're voting to set it aside.

Mayor Jones: But we're voting to set it aside in place of a Resolution to promote water conservation. That's the motion on the table.

Councilman West: Okay. I just wanted to understand this, because my vote on this is no.

Seth Thompson: If I understand correctly, it sounds like the motion is for a Resolution to be drafted encouraging people to meet water conservation.

Vice Mayor Booros: In lieu of this.

Seth Thompson: That's right, so if Council wants me to draft it, that's fine; if Council wants Town Hall to draft it, that's fine too, as long as it doesn't slip through the cracks.

Mayor Jones: And Mrs. Rogers, at the same if there is the space for the insert, Code Enforcement is giving information about lawn and small ordinance situations that arise particularly in the summer. If you need help or Councilman Coté who has the list there, perhaps we could list a couple of water conservation methods to the public in a letter that goes out also, with the water bill, so we don't miss the opportunity. Do we still have time to do that? Thank you.

Vice Mayor Booros: Madame Mayor, so is the motion to deny this?

Councilman Collier: It's to set it aside. It's gone.

Mayor Jones: Is there any further discussion? Are we ready to vote? All those in favor say aye. Opposed. Motion carried.

c. An Ordinance to amend the Town Code regarding Sidewalks (second reading)

Mayor Jones: I have a question Mr. Thompson in reference to the same kind of penalty that could have been carried for a water conservation violation; asking if this is civil, not criminal.

Seth Thompson: Just as I stated previously, I tend to view municipal violations as neither, because it's a civil matter that has criminal elements, so it's really easier to think of it again, as some sort of DNREC violation. I recognize that the process is that you go to the Justice of the Peace Court and that's how it's enforced. Obviously that would be true of a debt, as well, so I did see in the notes from the last meeting that people thought it was odd that you had to go to the Justice of the Peace Court, although I might be misconstruing that, but frankly that's what you would do for civil action anyway. But again our Courts have talked about the fact that it's a civil matter, with criminal elements. I think one other change and Kristy was kind enough to make it; your current Code distinguishes the timeframe for when a property is vacant, in terms of when it

needs to be fixed and Mrs. Rogers changed that from 30 days to 90 days after notice, as well.

Vice Mayor Booros: Councilman Collier, because you probably know that answer to this and I don't; as I walked through town today I was noticing curbs that are broken, but not the sidewalk. Is that the responsibility on Federal Street and Union Street of DeIDOT, if it's the curb; or is it the homeowner's responsibility?

Councilman Collier: Unfortunately, it's the homeowner's responsibility, because DeIDOT by agreement, only goes from curb face to curb face.

Vice Mayor Booros: Okay. I didn't know and I was walking through today looking and...

Councilman Collier: What you'll find in a lot of those areas are that the curb and sidewalk are one consistent thing.

Vice Mayor Booros: I understand.

Councilman Collier: Again, this is if it's considered hazardous. A sunken curb, one that's a little low, that's just a little low. When it becomes a tripping hazard or a hazard to traffic, that's when it comes into play.

Vice Mayor Booros: And the other question I had on this, and I don't know if anyone's checked with Historic Preservation or with Council, I seem to remember something in the Historic Preservation Ordinance about cutting down trees in the Historic District. If it's a tree root that has caused the sidewalk to buckle and crack; is there some sort of something in the Historic Preservation Ordinance about cutting down trees in the Historic District?

Councilman Collier: I know of nothing in the Historic Preservation Ordinance about trees; correct me if I'm wrong Mr. Davis. There's nothing. The Town never adopted a tree ordinance or anything to do with cutting of trees.

Robin Davis: That is correct.

Vice Mayor Booros: So there's nothing in the Historic Preservation Ordinance.

Robin Davis: There's no tree ordinance for the town.

Vice Mayor Booros: Okay.

Councilman Collier: I'd like to make a motion that we go ahead and approve this ordinance, as written.

Vice Mayor Booros: I'll second it.

Mayor Jones: Good, because I have a couple of questions. Under 183-1, the duty of the property owner to repair sidewalk; it's the shaded box at the bottom of the first page; basically it puts the 90 day repair squarely on the backs of the homeowner's, once they notice that it has been broken. However, it says if the premise shall be vacant at the time, once the notice is given, they also have 90 days to complete that. Now, my question in regards to that is, how often does Milton staff inspect the sidewalks, or how often are they prepared to inspect the sidewalks, because actually that can be 180 day corridor right there. If the owner does not voluntarily fix that sidewalk in the 3 months that we give them to comply, and you have to receive a notice, you're now at 6 months. So I think that comes with some action of how are the sidewalks inspected and at what intervals, to catch things like that; that's my first comment. On the back, under C, it reads any repair shall be completed within 90 days of notice, unless the owner provides to the Town, proof that his/her good faith efforts to have the repairs completed promptly. Then it says, regardless of any good faith efforts. So, even if they show you proof, you

still have the 90 day and the violation on top. I just want to confirm that.

Seth Thompson: That is correct that that's the way it reads, however, the proper use of discretion certainly if they... the reason it's structured that way is that if somebody gives... let's say the proof consists of a contract. They then cancel that contract. You don't want the clock to start over. So certainly your Code Enforcement Officer is going to need some discretion and really, the important element is following up, frankly. If he receives a copy of a contract and the contractor is supposed to have it completed on the 110<sup>th</sup> day, he needs to go by on the 110<sup>th</sup> day, so that's the reason for that language, that you don't want to have to restart the clock if there are these good faith efforts. On the issue in terms of keeping a running report in terms of the broken and damaged sidewalks, Sub-Section B of that section, says the Code Enforcement Officer and the Public Works Director are supposed to keep Council informed. Now it says at all times and that's language that's currently in your Code; you could put in there that that would part of their monthly report; or that could be just simply an administrative directive that at all times means put it in your monthly report to Council. But again that language currently exists in terms... The way it reads now is the Town Clerk and the Chief of Police are charged with informing Council, which seems a little bit odd just in terms of how duties have been divided in Town Administration.

Mayor Jones: I don't know that you could write it into an ordinance, but my issue still is that it starts with Milton's recognition that we have a broken sidewalk and the homeowner being noticed. So, I think that element of when does Milton inspect, is critical.

Councilman Collier: I've always looked at this as being a discretionary item on those that are actually doing it; whether it be annually, semi-annually, there's a certain window of opportunity where concrete construction is optimal and you certainly it wouldn't be in the good interest or fair to a citizen to notify them at the end of November that they need to fix their sidewalk; so I likened it to the idea that it would be done at a time that gives them that optimum window to prepare for this and be able to obtain a contractor and everything else and that's kind of why we didn't get real specific about they'll be inspected on January 15<sup>th</sup> every year or something like that. The biggest reason behind this was, this has always been in place, but there was never any penalty and there have been at least two occasions that I know of that letters have gone out to citizens and they've just generally said, eh, and the sidewalks didn't get fixed; it's always been on the back of the citizen to maintain the sidewalks in front of their homes. It's always been there, as long as I've been in this Town and it even went to the point where it was rewritten because it was a little bit gray as to whose responsibility it was, at one time, because of the way the language was. I believe that was corrected, probably in about 2006; but there's never been a penalty phase in place, or anything that gave the Town anyway to enforce maintenance of sidewalks, other than we'll write you a letter and you'll either do it or you won't. Some people respond and do them and some people don't. The last time letters went out, the only street that had 100% compliance with the letter, as far as I was able to observe, was Walnut Street; now it's only about two blocks of sidewalk, but everybody on Walnut took the letter to heart; they fixed their sidewalks.

Vice Mayor Booros: I know of a couple of instances where people have gotten hurt on the sidewalks and have notified Town Hall, I got hurt on one of your sidewalks and we

sent them to the owner of the property, not us, but the bottom line is we don't enforce that enforce that ordinance.

Councilman Collier: Now we have the ability to enforce.

Vice Mayor Booros: Right, but if we couldn't enforce the ordinance, or if we didn't make the guy fix his sidewalk, when we had the ordinance in place telling him that he had to do it, that makes us liable also and I don't want to be liable for somebody who's just allowing their sidewalk to crumble.

Councilman Collier: I think this is the vehicle by which to do that.

Vice Mayor Booros: Great.

Mayor Jones: And I just want to make sure that this also allows for using a standard that is identified by the Town of Milton for this replacement.

Councilman Collier: It does. It's not spelled out specifically in this section, because this is just part of a larger section, but there is a section within this ordinance that relates that things will be built to the standard as established by the Town of Milton.

Mayor Jones: And will a homeowner need to come and get a permit for this work?

Councilman Collier: That's normally the case.

Robin Davis: Yes and that's one of the concerns and I think Vice Mayor Booros brought it up at the last meeting.

Denise Suthard: Can we get an interest free loan like Ellen Passman?

Robin Davis: We have a concern, because if somebody comes in and gets a building permit, they technically have two years to complete the work; but this is basically saying they're going to get fined again after 90 days; they're going to be conflicting.

Vice Mayor Booros: This is because it's a safety issue vs. somebody putting a porch on the back of their house.

Robin Davis: Then I'll ask the Solicitor, do we have to change the building permit to say that we allow them a whole year; or another extension?

Seth Thompson: No, the building permit ordinance wouldn't override the more specific ordinance here dealing with sidewalks.

Robin Davis: Okay. I'm just trying to clarify from the Code Enforcement issue, because it's the same thing as what was brought up earlier. We're talking about good faith effort, by the owner; and discretion of the Code Enforcement Officer. Those two things are very generalized and my thought of good faith and discretion, may be different than the seven of you sitting up there. I would like to see... I don't know if it's even possible to do, but you're going to open up the Code Enforcement Officer to a lot of criticism because of his/her discretion. That call's going to come in and say well that's not right, that's not good faith, because I have a buddy that's going to fix my sidewalk for me. That's good faith. Do you have to have a contract? There's a lot of questions about that. I just see that the Code Enforcement Officer is going to get hit from both sides by leaving it so general that that person has discretion.

Vice Mayor Booros: I agree.

Mayor Jones: Mr. Davis, did you or Mr. Trotta have an opportunity to review this?

Robin Davis: I briefly did, yes, before it came before the Council last time and I do have comments on some of the other sections too, but that was my biggest concern about... I know it's going to be hard to pinpoint a lot of this, but when you leave it up to the discretion of one person, it opens it up.

Mayor Jones: This is a very difficult ordinance. It has been a long time putting it into place. I believe it warrants every look necessary and recommendation from you and Mr. Trotta. Besides the conflict with the building permit, which gives up to two years for extensions, I am concerned that this doesn't exactly say, you have to build it to the Town standards and therefore you refer to such and such. So, can all that be included in the ordinance if we do it just right?

Seth Thompson: We can always include additional language. Again, within Chapter 183 and I'm looking at Article I, which talks about sidewalk construction standards, but if it makes people more comfortable we can always include a cross-reference, that any repairs are to be performed pursuant to the standards set in Article I. I think that's fine. I was trying to think of a better way to articulate the difference between the building permit and this requirement and the building permit allow you to do something within a two year window, so you're allowed to do that construction; however, this ordinance is requiring you to perform within a shorter time period, so again, the permit...

Councilman Collier: I thought a building permit was for one year, with the potential for a one year extension?

Robin Davis: That's right.

Councilman Collier: I just want to make sure it's not a two-year... it could potentially be two years. Now, in regards to your comment about discretionary... any time and I read it somewhere within the Code just today, that the Code Enforcement Official makes a discretionary call and the property owner disagrees, they have the right to bring it before the Council and appeal that decision.

Robin Davis: That is correct. I'm talking more of another resident that if the Code Enforcement Officer with his discretion says that the sidewalk is not bad, or it doesn't warrant replacement and another property owner comes and says, well you're wrong. I think it does need...

Councilman Collier: Well that call was placed on one particular person and we could argue that all day long. That's correct.

Seth Thompson: Because the flip side of that coin, is if there's no discretion, then the person that has the sidewalk, says come on the contractor is going to be here next week; it's the 95<sup>th</sup> day; but, again, that's a policy decision and that's the other side of the coin.

Councilman Collier: We could write on this thing, until it gets just like the water one and simply set it down. You have to start somewhere with the thing and this is a start. I'm sure we'll find pitfalls, which every ordinance does have them and as we find them, we'll have to resolve them, but this is a start in the right direction, as far as I'm concerned and I don't know how much more polishing can be done on it to the point where, do we have to write out a plan Step One, you do this; Step Two, you do that; Step Three, you do that.

Mayor Jones: Sometimes you do. Sometimes it's helpful to put those terms down.

Councilman Coté: I'm trying to go back to Section C, where it says about the good faith effort. Does that paragraph really say that you have to do it in 90 days, but if you show a good faith effort, we don't really care, because we're going to fine you anyway?

Vice Mayor Booros: That's what it says.

Seth Thompson: I can tell you that a magistrate isn't going to love that.

Councilwoman Parker-Selby: Good faith... I don't like that.

Councilman Coté: If you're going to put in something about good faith efforts, you have

to make some allowance for that good faith effort. You can't just say, yes, make a good faith effort and we don't care, we're going to fine you anyway.

Seth Thompson: Councilman, I think your point's well taken. Just having been in front of the Justice of the Peace Magistrates, they don't love these cases anyway, so if somebody walks in and it's been corrected and you're trying to fine them after the fact, I think it's probably not the best use of town time and money.

Councilman Collier: So are you looking at striking "regardless of any good faith efforts" or "good faith efforts" completely? Which way are we going?

Councilman Coté: Personally, I would like to see it that if you've made a good faith effort, you get some extension of time.

Robin Davis: I think that's what it says. It says you have to repair...

Councilman Coté: I don't think it says that.

Robin Davis: I think the way it is originally it says any repairs shall be completed within 30 days, so they've got to be completed; unless that person... The first thing on C says within 30 days of notice.

Councilman Coté: Mine says 90.

Robin Davis: Really? The one that I have says 30.

Councilman Collier: You must have an old one.

Councilman Coté: You have an older one, I think.

Robin Davis: Okay. I understand that my point was the 30 days, the person had to have it done.

Councilman Coté: It went from 30 to 90. I think there ought to be something like that, if we're going to allow for good faith efforts, we should give them some time extension.

Vice Mayor Booros: Change it from 90 to 120. If you've made a good faith effort and 90 days has passed, and at our discretion you've made the good faith effort you've got 120, at our discretion. Then after 120 we're going to fine you.

Robin Davis: Then it goes back to what Councilman Collier said; in November if the Code Enforcement Officer goes out and says you've got to fix your sidewalk, well somebody comes up and says well, you're not going to do the concrete until March; but you only have 90 days.

Mayor Jones: And also one of the variables is that when the Code Enforcer goes out on the 87<sup>th</sup> day; that's one heck of a time to show good faith effort; you know what I mean? That's one of his discretionary charges, that would be easy just running up on 90 days, but I don't disagree, I think perhaps an additional period of time passed the 90 would be helpful to both the Code Enforcer and the homeowner, as the extension.

Robin Davis: Either way, as Councilman Collier said, this is going to be hard no matter what. Again the Town's been working on this ever since I can remember. I know Allen Atkins and probably made four or five lists of around the town on major repairs, minor repairs; that list was changed several times.

Councilman Collier: The way I viewed this is that all those lists are gone and this is a fresh start and a new list will be developed and developed at such a time to give everybody who's impacted by this, the optimum window to achieve their repairs. I'm not against amending my motion to changing in Section C, in the second sentence, it says regardless of any good faith efforts, any repairs not complete within 120 days after notice shall constitute a violation.

Seth Thompson: Or some potential middle ground...

Councilwoman Parker-Selby: Or take out regardless of any good faith effort and any has a capital A.

Seth Thompson: Councilwoman, that's where I was going; where basically the middle ground on that would be taking out "regardless of any good faith efforts"; it would say "Any repairs not completed within 90 days after notice, or any extension for good faith effort shown, not to exceed an additional 30 days, shall constitute a violation."

Councilwoman Parker-Selby: That sounds better.

Seth Thompson: So I think that keeps the onus on...

Councilman Collier: Now if we make that change, does that mean we have to come back for another reading, or can we make that change and push it forward?

Seth Thompson: You're allowed to approve an ordinance, as amended. This isn't a bait and switch here, when you're adding an additional clause.

Councilman Collier: That's what I'm getting at, because this thing has come back enough times, it's time to either throw it away or get it done. So if that's what I takes to get it done and I think that's probably a little more specific and it answers that concern, so I'd be willing to amend my motion to approve with the changes as stated by the Town Solicitor.

Seth Thompson: Again, just for the record, to make clear, Section C, we've removed "regardless of any good faith efforts" and then the A of "Any" would be capitalized, so that sentence would read "Any repairs not completed within 90 days after notice, or any extension for good faith efforts shown, not to exceed an additional 30 days, shall constitute a violation of the Section and shall be punished by a fine not less than \$25, nor more than \$75, plus the cost of prosecution."

Councilman Collier: I think that works. So I will amend my motion to that affect.

Vice Mayor Booros: I'll second it.

Mayor Jones: And I'll ask Robin what it is he has to say, because I unfortunately feel this ought to have a review by your department, but go ahead.

Robin Davis: I'm okay with that section, but we're moving into the snow area.

Mayor Jones: Snow. Gotcha.

Councilman Coté: I had one more question before we got to snow. It's right above C. It's in B on the second page and it said that the workers shall at times keep the Council informed of any broken or damaged sidewalk or curbing that they deemed hazardous within the Town. I guess hazardous is sort of like pornography. I can't define it, but I know what it is when I see it. I don't know when broken and damaged...

Vice Mayor Booros: Walk down Chestnut Street.

Councilman Coté: I get that, but I don't know... Will it hold up that way.

Seth Thompson: Councilman, you're absolutely correct. It's not a defined term within this chapter, so it's going to be given it's plain meaning. I think very often when it comes to interpreting undefined terms in Town Codes, we look to other definitions in the Town Code, so there may be other terms for hazardous; other chapters that define hazardous conditions. I'm fairly certain there are.

Councilman Collier: You'd think it would impact public safety, so you've got sidewalks that have this much separation between the cracks, so it's a tripping hazard and that's harmful to public safety; so again it's still broad in general. Now we're getting to the

point do we define that any difference in elevation between three pieces of sidewalk that exceeds an 1/8<sup>th</sup> of an inch is hazardous? Maybe we should make it 3/16ths.

Vice Mayor Booros: This sounds like the meeting I went to four years ago, or maybe even longer, 5, 6 years ago; which was the last Streets and Sidewalks meeting that they had this discussion about sidewalks and that died last time.

Councilman Collier: Hazardous is hazardous is hazardous and it's always going to be an opinionated thing. Generally, you know, if it affects public safety, it could be considered a hazard.

Councilman Coté: Well can we just substitute that it would impact public safety, for hazardous?

Councilman Collier: Even that's an opinion thing, because as I said I might think that 3/16ths of an inch difference in elevation between two sections of sidewalk is a hazard; somebody else might think a half inch is okay. I think that we're getting to the point where now we're splitting hairs.

Mayor Jones: Well, here's another one.

Councilman Collier: Okay, bring it on. I'm having fun.

Mayor Jones: Really? Does this ordinance take any ADA compliance into account?

Seth Thompson: A lot of your sidewalks are going to be grandfathered under the ADA, so it's difficult... you're repairing something; generally you're allowed to repair a grandfathered item. If you're entirely replacing it, that's a different story basically. Take a building, for instance, you're going to be allowed to fix a broken stair rail. If you tear down the building, you're going to need to make it ADA compliant, so it's difficult to come out with a blanket statement. This doesn't change anything that has to do with the ADA. Really what we're dealing with as Councilman Collier says, we're really putting a form of a violation to this; basically some sort of substance to really an obligation that already exists under your Code.

Councilman Collier: If you live on a corner lot and you have an ADA compliant ramp at your corner lot, it would be expected if it's deemed hazardous, you would repair it to that standard. That would be the expectation that I would have. If you look at our building standards, it defines what happens at a corner, where there's a crossing. If you're in the center of the block ADA compliance never comes into play. So, again, it's a selective item and when you go to the Town Standards for it, what happens on a corner of a street, it shows that it's built to the Standard.

Mayor Jones: But if you have a portion of the sidewalk that has a curb cut on it and you suddenly drop down, because you've got a driveway in the middle of that sidewalk, that's an issue; not just for ADA compliance, but for safety purposes.

Councilman Collier: Not every curb cut requires ADA compliance. It depends upon the transition from this level to the lowered level and now you're getting into measuring how much fall there is over a certain... it's a ratio. I don't recall it. But it comes down to how much fall you have; so there are a lot of ways of dealing with that. In particular, if it wasn't ADA before, it probably won't be ADA now, unless you change the grade of the driveway, or you change the transition into that fall from the entrance.

Vice Mayor Booros: Mr. Thompson, in a town as old as this town is, with as any different types of sidewalks and sizes of sidewalks and widths of sidewalks and elevations of sidewalks; if there's not some subjectivity from somebody, when somebody

comes in and replaces one four foot section of their sidewalk that's been there 100 years, with the current standard in our Code for a sidewalk that's this thick; when the rest of the sidewalk all the way along here has sunk down a foot; you're going to have a problem. So they're either going to repair it at the same height it is, and not necessarily in accordance with what the current code says for that one four foot section of a 60-70' long sidewalk, where a portion of it is brick, a portion of it is concrete, a portion of it is not there. You're never going to get ADA compliance on a 4' section of concrete in the middle of a block with two foot wide sidewalks and now, all of a sudden you've got a 5' wide sidewalk, for this 4' section; it goes back to 2' wide? If there's not some subjectivity here, with somebody, using some sort of something... you cannot write this book perfectly. Either we're going to get rid of these crumbling sidewalks that are a hazard, or we're not; but we could sit here and beat to death ADA. I'm worried about ADA and I said it to somebody when we were walking this morning. Cannery Village, you don't want to put a sidewalk here, so what's the person in the wheelchair have to do; turn around and go all the way back to the damn corner, or go down the curb because the sidewalk doesn't continue in front of that vacant lot. If we want to talk about ADA compliance, in a brand new neighborhood, not a street that's 100 years old; let's worry about fix the damn crack in the sidewalk before I trip and hurt myself, because I'm walking the every day and they're bad news.

Seth Thompson: Vice Mayor, I agree. I think it's an important issue for people to be aware; we can't really generalize because again for the most part, if you're repairing something, it doesn't trigger ADA and if it does trigger ADA, frankly the Town can't do anything about it.

Vice Mayor Booros: But if you tell them it's got to be in accordance with the current Code, their repair; that's going to cause a problem on a 4' section in the middle of a sixty foot long sidewalk that's two feet wide.

Seth Thompson: Right. Understood.

Vice Mayor Booros: So you can only do so much. If we don't put something in place, they'll continue to crumble. Nobody will fix them and somebody's going to get hurt and it will probably my fat butt.

Seth Thompson: I agree. I guess maybe this is a question for Robin. When somebody comes in for a building permit on a sidewalk, is it reviewed for ADA compliance at that point?

Robin Davis: Yes, it should be. If it's a new sidewalk, yes; again it goes back to the difference between whether it's being repaired or a replacement or a brand new one.

Seth Thompson: So when it's a new sub-division it's a lot easier to say you need to comply with ADA throughout, but if somebody's coming in just to get a building permit again to correct maybe a large crack or a chunk broke out or a tree root broke it; really you have to deal with it on that individual basis, I take it?

Robin Davis: Correct.

Councilman Collier: Alright, you had a question about snow removal?

Robin Davis: In the section 54, I understand that in the section before that in B it talks about the official charge of Code Enforcement. Does that pertain to who's going to be responsible in that section too?

Councilman Collier: In the old ordinance, it was at the discretion of the Streets

Committee to basically take care of snow removal and they had the ability to cause somebody to remove it. Well the Streets Committee doesn't have the authority to incur a debt on behalf of the Town; so that's why it came back to... I would say Code Enforcement. It's pretty obvious when you walk down the street and you've got sidewalk here in front of Mr. Harris' house is clear because he always clears them on his properties on Union Street and then you get to the one next door, or two or three next door, and they're not cleared and what particularly got me concerned about this, was that you get a lot of property owner's and particularly like Union Street is a good example. We had four snowstorms this year and in all four snowstorms, there were areas where citizens walked in the street because the sidewalks were not clear. Most of the time they didn't get cleared until they melted off. I think the big reason to put this in an official, with a capacity to... the Code Enforcement Officer has the ability to cite somebody for non-compliance.

Robin Davis: That's fine. I just want to make sure that with the wording that says official in charge of Code Enforcement in B; since it's not specific in putting into that section, does that fall in there and that would probably be more something for the Solicitor? Does taking that whole sentence out, or do you just take out the Streets Committee and put in official in charge of Code Enforcement?

Councilman Collier: Okay, so you're asking for it to be defined specifically within the ordinance?

Robin Davis: Or does it have to?

Seth Thompson: It would fall under your general category in terms of your Code Enforcement. The way your Code is set up, unless somebody else is specifically given the authority to enforce a section or a chapter, it falls to your Code Enforcement Officer. It's kind of like what we talked about before. If Council wants to put that in there expressly, that's fine, as well.

Robin Davis: Yes, again this might be some minute things that we're here to discuss, but I just want to make sure, if we're going to make these changes, we need to make all the changes we need to, or the ones that best fit. If there are going to be additional changes later, but right now one of my questions is when you talked about clearing a sidewalk. I have seen many sidewalks, people take a regular flat shovel and take a one foot swipe through the snow; again, going back to ADA, you're supposed to have 3' of clearance. Is that going to be something? Are you going to let them do one swipe with a shovel, or what is clearing? How much snow is clearing? How much snow has to be on the sidewalk, before they get violated? Is an inch of snow something that we're going to charge somebody \$50 for?

Councilman Collier: You have a 24 hour window and 9 times out of 10, with an inch of snow in 24 hours, it's gone.

Robin Davis: And I understand that, but I'm back to after that fact. Again, I'm looking at it from the enforcement. I'm not trying to be difficult on this, it's just the enforcer is going to be the one making these calls and if somebody, again, is going to say well how come Joey doesn't do his sidewalk or make it 4' or 3' or 5', how come I do it? Again, it might not be necessary to put these in there...

Councilman Collier: So if I get the gist of this, what you're looking at is that you would feel much more comfortable from a Code Enforcement aspect, if it stated that the entire

width of the sidewalk be cleared?

Robin Davis: If that's what the Council prefers; if that's what we want. Because we do have those ones that...

Councilman Collier: Because anything other than that passable is another one of those terms. Some people will tell you that a 6" wide swipe is passable.

Robin Davis: Correct. That is correct. I was looking at it more from ADA that says 3' is.

Councilman Coté: I would think that if ADA is 3', then it should be cleared to a minimum of 3'.

Mayor Jones: Can't we just refer to that standard?

Seth Thompson: I tend to prefer... That's exactly right, incorporate by reference, so that if the ADA from now becomes 3.5', you don't have to go back to redo the Code.

Councilman Coté: Is that easy for people to look up and find?

Robin Davis: Probably not the average person.

Councilman Coté: So they know what they're...

Robin Davis: Probably the average person, no.

Councilman Coté: They need to know...

Councilman Collier: Sounds like another water bill insert.

Councilman Coté: They need to know how much they have to clear.

Robin Davis: And if this is going to be left up to Code Enforcement Officer and it stops snowing at midnight, in the next 24 hours period, is that Code Enforcement Officer coming in at midnight to check after the 24 hours period?

Councilman Coté: Yes. Sure. Maybe not.

Robin Davis: It's just a generalized question.

Seth Thompson: There's what the law provides for, I suppose and what is feasible in the town's schedule.

Robin Davis: Because I know at 8:30 there's going to be some phone calls at Town Hall, how come my neighbor's didn't go out at midnight and clear the sidewalk off?

Councilman Collier: Well most of the ones that don't get cleared in a timely fashion, are those folks that aren't necessarily here when it snows, so there's the answer to their question.

Robin Davis: Yes, we all know that, but again that 24 hours period at 10:00 at night that Code Enforcement Officer should, by this, go in there at 10:00 and start writing up violations at 10:00 at night.

Councilman Collier: Do you want it defined to the point where it says 24 hour period, or at the beginning of the next business day after the snow fall ceases? Now we're getting down to splitting hairs again.

Robin Davis: Correct. Again, but these all can go away. I'm not saying I don't care.

Mayor Jones: Probably why we've never enacted this.

Seth Thompson: Council could basically enact Section 1 and 2 and save Section 3 for a separate ordinance. You could amend this ordinance to remove Section 3, so that you at least put in place Sections 1 and 2 of the ordinance and then have a separate ordinance.

Councilman Collier: Well this is not really Section 3; this skips from 19 down to 54.

Seth Thompson: I'm sorry, when I'm referring to sections, it's the sections of the ordinance.

Councilman Collier: Okay, I gotcha.

Seth Thompson: So in other words and this is purely for Council, but Council could make the amendments to the section of the Code Section 183-1 and then 183-19 and then set aside for further discussion or further improvement, the revisions to 183-54 dealing with snow removal. That's another way to put something in place.

Councilman Collier: Alright, so I guess to amend my amended motion then.

Mayor Jones: May I ask Mr. Davis a question first?

Councilman Collier: Sure, go right ahead.

Mayor Jones: Mr. Davis will you have an opportunity to review 183-54 the snow removal and do you have some points that you could write down and make to Council for us?

Robin Davis: Yes, I have the written comments that I've had. There's only actually a few more, but if you want to move on. Again, it might be minimal, but from the Code Enforcement end.

Councilman Collier: We want to make life easy. Alright then I will amend my amended motion to set aside Section 3 for further review, but I'd like to go forward with Sections 1 and 2, as previously amended.

Vice Mayor Booros: I'll second that. I'll amend my second, to second that.

Mayor Jones: Any other discussion? We will wait for Mr. Davis's comments on the snow removal.

Vice Mayor Booros: Can we mention that Councilman West has left the room?

Councilman Collier: Councilman West, in order to move this forward, I amended my motion to drop Section 3 for further review, that's the part about snow removal; but we'd like to go forward with Sections 1 and 2, as previously amended and Vice Mayor Booros has also offered his amended second.

Mayor Jones: Do you have any other comments Councilman West? All those in favor say aye. Opposed. Motion is carried.

- d. An ordinance to amend Chapter 220 of the Town Code, entitles "Zoning" relating to Home Occupations

Seth Thompson: For the Council's benefit, just as kind of an overview, currently your home occupations are special use exceptions, so what Planning and Zoning did, again kind of from a 30,000' perspective is they went through and figured out, the created two categories of home occupations. If you meet the definition of home occupation and then meet the specific requirements, you can be an automatically permitted secondary use, as a home occupation. If you don't meet those requirements, then it remains a special use that you would have to apply for. So the thought was the home occupations that seemingly don't affect neighbors, whether it's through noise or traffic, could be an automatically permitted secondary use. Obviously there's a lot of language here. I think we modeled a good amount of it after Lewes. We did look at some other town codes, but that's kind of the global perspective.

Vice Mayor Booros: One of the first things I noticed right off the top, when you have a counselor or a psychologist doing counseling or therapy in their homes, and your next door neighbor is a drug counselor and they've got drug addicts coming and out of the house all day long, somebody may be concerned of who's waiting out front when the other guy's getting his therapy, since only one can be in the house at a time and the thing

about physicians; I understand that there are no physician's special use in the downtown district, because you don't want a Methadone Clinic in the middle of town. Just because he's a doctor, doesn't mean he's running a Methadone Clinic in the middle of your downtown district. Well I sure don't want it next door to me, without the opportunity to have a public hearing on it; not just somebody in Town Hall issuing the guy a building permit or a license to have a home business, because it fits under one of these broad categories. I think they're too broad. I hate to say the piano teacher. I agree \$800 and 18 copies of this and all this crap to go before Planning and Zoning to get the approval, is just way too much. The process needs to be streamlined for a home business, but if I worked nights and I'm sleeping during the day and the guy next door is giving piano lessons to 6 year old's in the middle of the summer, with the windows opened. I want an opportunity to speak my piece and I know of other businesses in this town, home businesses, that have applied to open a home business where they scrutinized how many times the UPS truck is going to be dropping off materials and supplies and when you read this, of course they can have deliveries. They may be shipping and receiving out of the house and not using a warehouse base, as long as they're not using more than 500 square foot of their house; one half of their house or 500 square foot of the house, whatever it is. You can't have anyone that's not in your family working in your home business. Well this came about when an engineering firm that was renting a condo in Cannery Village, who had two employees, I think; and they were using three parking spaces out front in the condo building and he wanted to run his business out of his condominium that he lived in; but he had employees. He had a secretary coming in. He had a business partner coming in and now this one says they have to be all family members. I don't think you can enforce this clause. I think it cannot be enforced. Nobody's going to go measuring square footage in houses. Nobody's going to be out there at night in Wagamon's West Shores when the guy is having 100 people over for a presentation, because he's trying to get people to go on a cruise, but his neighbor's are all affected by it, because one person makes the decision that this person deserves to get a business license as a home occupation. But I agree that \$800 process that we now have in place, is just too cumbersome for somebody. A real estate agent's license hung somewhere else, that doesn't apply to a home occupation, because they happen to live there and do business on their computer. I don't even think that's a home occupation, because they're hanging their real estate license with a broker somewhere else, but I looked at this list of things and... a construction contractor who's got his truck parked out front with the name of his business on his truck; no signs, but you put a magnetic sign on the side of your pick-up truck and you've got a sign, wherever he's at. I don't like it. I think it needs a lot of work.

Mayor Jones: And Vice Mayor Booros, I'd like to just say back something that was said by Mrs. Weeks this evening. I know it pertained to 220 in "may"/"shall"; it's completely different, but she stated that what these ordinances should be designed for is to give the citizens the greatest opportunity that they can, to express their concerns and in home occupation it states clearly that these automatically permitted accessory uses do not interrupt the residential nature of the zone. This is important since there will not be public and neighbor input.

Vice Mayor Booros: One person making the decision.

Mayor Jones: Some of the contradiction I find under A, that you are permitted under 3, day care or baby sitting. And then you get down to B, childcare facilities are not permitted. Now day care and/or baby sitting childcare facilities, I'm probably the one not informed, but that seems to fall under the same heading there and are they not in cases subject to state licensing?

Seth Thompson: State licensing is going to be a separate issue from your zoning, so again, even if your zoning permits, whether it's a special use, whether it doesn't permit it, they need to get a State license.

Mayor Jones: What's the difference between day care and childcare.

Seth Thompson: I believe they're defined in your Zoning Code already.

Mayor Jones: And we had a physician, but it was permitted under Conditional Use, in the middle of a residential district. Does that still qualify for them to be a home occupation?

Vice Mayor Booros: Yes, as long as their nurse is a member of the family and lives in the same home.

Mayor Jones: No, no. We had a physician, who practiced on Union; that location was granted permission as a Conditional Use, though it sits in the middle of a residential, and that physician didn't meet... of course, if you then remove that it didn't meet square footage, it didn't meet the number of vehicles, then that physician isn't qualified, but that's sitting right there as an approved occupational use.

Seth Thompson: I think it's important to remember that the home occupation is a secondary use, so no structure is going to be approved as a home occupation...

Vice Mayor Booros: As long as it's not more than 500' of the structure, or half the size, whichever is less. I understand that part, but you can do a lot of drug counseling in a 500 square foot room.

Seth Thompson: It could be that the Council determines that the counselor comes out as something that just isn't appropriate for a home occupation, or as one that has to go to a special use. Currently your physician can be a home occupation. It just has to go through the special use process.

Vice Mayor Booros: Understand and I don't have a problem with the special use process. I just have a problem with the fact that sometimes it's cumbersome for people who want to give piano lessons in their home; maybe there should be a short cut and it shouldn't cost the guy \$800 to be able to give a piano lesson in their home, but for my neighbor to say he's going to give piano lessons without me getting an opportunity to say the hell you are...

Seth Thompson: To be clear, on the automatic category no noise, vibrations, heat, glare, electromechanical interference, dust odors...

Vice Mayor Booros: We do not have the ability to enforce all of these things that are written into this ordinance. The number of square foot they're using the house. None of it. You have one person issuing permits; who's going to follow up on all this stuff to make sure that every person working in the home business, lives in the home. How are you going to prove it? There's too much crap in here that can't be enforced and has no teeth and just gives one person the ability to issue licenses to whoever they want to. I make a motion that it be tabled again until it's cleaned up, one more time.

Councilman West: I'll second that.

Vice Mayor Booros: Can I amend that motion? And that this Council or Planning and Zoning or somebody look at the current process and find a way to streamline it and bring a recommendation to this Council on how to streamline the current process.

Councilman West: I'll re-second his additions.

Mayor Jones: One thing that popped out, Vice Mayor Booros was under B, Permitted Uses in Town Center. I know that there's just been some chatter going on about our missing out on a bakery. It's my understanding that that was not going to be a retail business, but rather just a business inside one of our business buildings. I wonder, if I can ask Robin, was any consideration given to expand some of the Permitted Uses, or were they simply reviewing it as it sits, nothing added, nothing removed?

Robin Davis: Yes, the main focus of the Planning and Zoning Commission was the home occupations, because of what we had with the engineering firm and the lady with the piano lessons.

Vice Mayor Booros: Can I ask one more question here, Madame Mayor, since I've made the motion? Does this require a four-fifths super majority vote to table or to kill?

Seth Thompson: I believe it's only to approve otherwise. In other words...

Vice Mayor Booros: I think it stinks and it's the recommendation from Planning and Zoning...

Mayor Jones: Not to table.

Councilwoman Parker-Selby: To get rid of?

Mayor Jones: Just to table. To get rid of it, it would be a super majority, I believe.

Vice Mayor Booros: Then my recommendation is to table it for however long it takes.

Councilwoman Parker-Selby: You don't want to get rid of it?

Vice Mayor Booros: Well, we need to do something, but I don't know that this is what it is.

Councilwoman Parker-Selby: I guess my question is why is this an issue? Do we have a large or tremendous amount of home businesses, or what have you; remember I talked about I was a consultant after I retired and still people call me. I have a business license and all. I don't think it was fair for me to have to pay money...

Vice Mayor Booros: It should not cost you... well you paid the State to get that license.

Councilwoman Parker-Selby: Yes, but I shouldn't have to be pay in my house to go somewhere else.

Vice Mayor Booros: But you paid the State to get that license to work out of your house?

Councilwoman Parker-Selby: Right.

Vice Mayor Booros: You paid the State. Why should not the Town get money for that business license? If you're carrying a State license to operate a business out of your home, in this town; why shouldn't you also fall under the requirements of a business license for a home business.

Councilwoman Parker-Selby: That's just getting too...

Councilman Coté: Vice Mayor Booros, that's not on the agenda.

Vice Mayor Booros: You're probably right.

Councilwoman Parker-Selby: I guess my question is, do we want to keep this coming back, or just say get rid of it; unless we have so much of it and it's going on that it's bothering people.

Vice Mayor Booros: It takes a four-fifths majority to kill it. If you don't have a four-

fifths majority sitting up here tonight, it's going to pass.

Councilwoman Parker-Selby: Well, I'm agreeing with you to get rid of it.

Vice Mayor Booros: That's two of us. My motion is to table it.

Mayor Jones: Mr. Davis, I know that this all came about because of an influx of looking at what right now is considered home occupation businesses and it was not to flood the Planning and Zoning with all of the applicants coming before them, to be defined. Approximately how many of those still exist in limbo?

Robin Davis: I think last year the number was somewhere around 60 some; that includes contractor's; that was the whole list that was supplied to the Council. I did a quick check on the State of Delaware website and pulled all the state licenses for Milton; broke out the out-of-town ones. Mr. Trotta's working on removing all the commercial type businesses from that list. I would say right now there's probably close to 80-90 on that list.

Vice Mayor Booros: And the bottom... Do you have the actual applications they filed with the State?

Robin Davis: No, we didn't go that far yet, because...

Vice Mayor Booros: The last block on that application says specifically, what is the nature of your business? Describe it in detail. I'd like to see the last block of every one of those professional services that they put up there; just because they said they were professional service, home business, I want to know what it is. If they're doing drug counseling out of that house, they're not living next door to me, without me saying something. I have a right to say something. They may get the license, but I have a right to speak. This takes away that right, altogether and I'm surprised Planning and Zoning sent this to us, taking away the rights. Like you said, Mayor, taking away the rights of the citizens by just making a blanket. Do I think that \$800 for somebody to go to get something simple, is like you or anybody else, that's too much.

Robin Davis: Correct.

Vice Mayor Booros: There has to be a happy medium.

Mayor Jones: And really in their advisory report the Planning and Zoning Commission was sensitive to the fact that a change like this would keep the public and the neighbor's from having input, so really putting that context...

Vice Mayor Booros: But they still sent it to us and recommended approval.

Mayor Jones: They did. They did.

Councilwoman Parker-Selby: Did the motion on the floor call for questions?

Mayor Jones: Discussion, yes.

Councilwoman Parker-Selby: So if we're finished discussing, I'm ready for a vote.

Mayor Jones: You're ready for a vote. It's to table it.

Councilman Coté: Another small flaw in the wording. Under allowed a 5, it allows private instruction limited to one or two pupils at a time.

Vice Mayor Booros: But only one customer in the house at a time.

Councilman Coté: But you can only have one customer in the house at a time.

Vice Mayor Booros: I caught that too.

Councilman Coté: Yes, it needs some work.

Councilwoman Parker-Selby: A lot of work.

Mayor Jones: So we have a motion to table this; not just tabling it; could I request that

perhaps there's a recommendation on the work that yet needs to be done on this, so that it can help also guide town staff on what you need?

Vice Mayor Booros: I think my motion was to table it until we can see if there's a nicer way of streamlining the current process, before we go doing like this.

Mayor Jones: Okay, with the actual 80-90 that we still have to be determined, in our hands.

Vice Mayor Booros: And those are 80-90 that by the way, we missed the business license fees on those 80-90 businesses this year. They got State licenses and never got town licenses. It's revenue. I'm sorry guys.

Councilwoman Parker-Selby: I didn't get my State license this year.

Vice Mayor Booros: Revenue and you're either going to pay out of your taxes or the businesses are going to pay it. They didn't have a problem getting a license from the State...

Councilwoman Parker-Selby: Vice Mayor Booros when you started all this I didn't even get my State license this year.

Vice Mayor Booros: Smart woman.

Mayor Jones: So you're off the radar.

Vice Mayor Booros: And you're right, I did start all this and it all had to do with the guy that wanted to open the gun thing in his townhouse in Shipbuilder's Village. At that point he said there's six other businesses here in Shipbuilder's and one of them makes guns. It's like, how could it be. We haven't issued any licenses in Shipbuilder's Village. He was right. We hadn't issued any licenses in Shipbuilder's; the State gave them licenses to do these things and they just went ahead and are operating businesses; without the Town knowing about it. But, online in a nice PDF format are all the State licenses and it's updated daily, that were issued in the Town of Milton.

Mayor Jones: Okay, we have a motion to table and we have a second. Are we ready to vote? All those in favor say aye. Opposed. Motion carried.

e. Cannery Village punch list, development standards and subdivision approvals

Mayor Jones: Do you have anything Mr. Thompson?

Seth Thompson: I haven't received any communication at all. I think at the last meeting Councilman Coté indicated that Chestnut Properties wanted to put together some sort of agreement; I haven't seen one.

Councilman Coté: I did hear about a week or ten days ago that they were still in the works and still trying to get some more information from Croll, who's their paving contractor, but they didn't have it yet and we did ask them to let us know as they were proceeding, but I can make an attempt to follow up with the.

Seth Thompson: I can reach out to them, as well. I suppose that's probably the better avenue. I'll reach out on the Town's behalf. Obviously that's kind of a clearer role for me. I can do that and then hopefully they get back to me, but again I haven't heard anything from them.

Mayor Jones: My only comment on the topic is, I had answered a couple of members in Cannery Village about where this stood. My greatest concern was that it just meant the clock was ticking; because as the developer works with Croll on this de minimis list, that still will need to be presented to the Town and further negotiated, because it's just

not an accepted document. Time marches on. This is my greatest fear about getting this into our hands, negotiating it further. The one thing that concerned me was if Chestnut Properties hopes to bring the idea of adoption of the alleyways to the Town Council, as I've had a discussion with Mr. Thompson, this is a codified process that would require the to go back to Planning and Zoning, in order to do that. So what we want to make sure and what Mr. Thompson wants to make sure they understand is, that a Letter of Agreement would not satisfy that; that there actually is a process in place and if we do not wish to be challenged on it, they will need to do that. It can also be done simultaneously as they're working with their contractor on that list of repairs. So anytime they want to come before... make application to Planning and Zoning that would be acceptable. Is that correct?

Seth Thompson: That's correct, Mayor. I envision, and again I'm speculating as to what they're going to create, but my vision of what the agreement would include, would be the processes they need to go through. We have a Town Code, it describes processes, some of which involve public participation, public input, so we're not going to contract around those processes. If they want the Agreement to lay out what they intend to do, that's fine. It just will be abundantly clear in that Agreement that there aren't any foregone conclusions. It's going to have to go through the appropriate process. That's the way it should work.

Mayor Jones: That's just to provide the citizens with an update of how things are going on that process.

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

- a. Bond reduction request from Fernmoor Homes for Phase 3A of Heritage Creek

Tabled for this evening per motion of Councilman Collier.

Mayor Jones: We are removing that. We're waiting for further action between Heritage Creek and another review by our engineer.

- b. Request from Barry and Hattie Bull for the consolidation of two parcels into one parcel. The parcels are located at 524 Mulberry Street (Parcel # 2-35-14.15-11.00) & Orchard Street Extended (Parcel #2-35-14.00-564.00)

Mayor Jones: This is the Orchard Street property and I understand we have a date?

Seth Thompson: Bill Schwab is going to be representing the Bull's. I think, due to an issue that Bill needed to clean up in terms of how the covenants would affect this parcel, the covenants of Shipbuilder's Village, which arguably it was a part of vs. the Bull's property that wasn't a part of Shipbuilder's Village; Bill has cleared that with the title company to their satisfaction. So it is scheduled for Wednesday for a closing.

- c. Resolution 2014-007 - to schedule a public hearing relating to the ordinance to amend Chapter 220 of the Town Code, entitled "Zoning" relating to Home Occupations

Mayor Jones: And with 14.b concluded, we can also get rid of 14.c under the public hearing for the home occupation.

- d. Economic Development USDA Rural Development signage grant – update on sign location and design

Mayor Jones: Is there someone here to present for the Economic Development Committee?

Alex Donnan: As you may recall, about a year ago we got a grant from the USDA for signage. We've struggled with outside agencies for almost a year. What was supposed to take two weeks, took over four months; and all the lost time and communications, but we are finally making progress. Last week, I got an email from DelDOT and it said that this week or next, we will have a new proposal based upon the information that I sent to them. Their first proposal only was going to give us five signs. I said that was not acceptable. We want about 14 signs, roughly and laid it all out for them, sent it back to them and they have finally responded and said they're working on it and we'll get back to you and tell you what you can get, at the moment. We originally started out trying to get a traction sign, which is called a "blue sign"; and it's a specific process. It starts with the Department of Tourism and works with DelDOT to get that. That's where we lost a lot of time. It turns out that what we considered an attraction, they did not consider an attraction; only one out of six. So that didn't work for us. So I think in your packets, I gave you a list of the signs we have proposed. There's also one copy of a great big 4'X8' Blue Sign we found over in Roger's signs. Apparently it got there through the Draper Associates somehow. It's a welcome sign, which are no longer allowed on Route 1. We can't put them there anymore. We lost our sign, which used to be on Route 1, just north of Route 5. A car whacked it several years ago and no one has any information on it and it cannot be replaced. But, Councilwoman Patterson has said we'll let you put that on our property on Federal Street, which comes right out very close to where you can walk Route 5 and we said fine, so we're going to pursue that. It may change it a little bit. We have the money to redo the sign, if necessary. It just says "Welcome to Historic Milton" on it, but there's no directions, there's no see Wagamon's West Shores, see the Museum or anything else on it, so we'll work that out and get that to happen. But what we've got and you can see that on this map, thanks to Councilman Collier, the sign details of roughly what we expected to get on the original blue sign, which is Historic Milton Museum, Memorial Park, the river boat ramp; they added river, because it adds another factor and expands the boat ramp issue and Wagamon's Pond. Then we have some others, that because of their locations, drop off some of them; because they'll miss part of those six items. So we've got a lot of signs coming in. Hopefully, we'll know within a week or so and if we get the all, I think it's going to do us a lot of good. In addition, they've proposed several signs for Route 1; basically it's a Historic Milton. It's approximately 45"X30", which is a good size, these are all brown and white signs and they'll go at Route 16, north and south and Route 5 south; those historic signs, in addition to what I requested. Also, the public library signs; we already have two. They're on Route 16. They're going to be replaced. They're exactly the same except I think they're a little bit bigger. The current signs are kind of dog-eared and worn, so these will be nice and bright and will help in that category too. So I think we're finally making progress. If we can get all the signs we want; we'll take whatever signs we can get and we'll worry about the deficiencies later with Mr. Lopes, who's working with us now and I think we've finally made some progress. So that's where we are.

Mayor Jones: Alex, thank you very much. I have read since this has been plotted, DEDO sent us their report from the interviews that they did in the month of April, I believe it

was early April. One of the things that they recommended were Welcome to Milton signs, so I see that you have the dilemma on where to place this one. Are there any more Welcome to Milton signs being proposed?

Alex Donnan: Not at the moment, but they can go on private property only.

Vice Mayor Booros: Dogfish now has their new entrance on Cave Neck Road as you enter town. Has anyone approached the about a sign over there?

Alex Donnan: Yes, I have, but we were going to put it on the current exit where all the people come out on Chestnut Street.

Mayor Jones: But that's not a boundary.

Vice Mayor Booros: A Welcome to Milton sign at the entrance on the other side.

Alex Donnan: We can look at that. We have the funds to do that, both signs are about \$3,500 apiece; they're very expensive.

Mayor Jones: Did you receive a copy of that report, because I'll be glad to forward it.

Alex Donnan: No.

Mayor Jones: I will forward it to you.

Alex Donnan: Forward that to me, if you would.

Mayor Jones: Okay.

Alex Donnan: This is Phase One, so to speak. Once we get this under, then we can spot other things. Councilman Collier mentioned the spot, Front Street and Cave Neck Road that highway where the sign always is for whatever function we're running at the time. I'm going to approach those folks and see if we can get a permanent big sign in there perhaps.

Vice Mayor Booros: That's the State's property.

Alex Donnan: That's great, then we'll go to the State then.

Vice Mayor Booros: I think the State owns that property, don't they?

Councilman Collier: They have a small section in there, yes.

Alex Donnan: So we can get that in there and we might be able to get some other participation and make not just a sign, but elevate it and make phony brickwork around it and all that fancy stuff. Maybe get the Lion's Club to donate some money and any other groups that want to help participate and get a little sign on the side.

Mayor Jones: Now when you said that the signs were now restricted on Route 1, does that also mean that Route 16 would have those restrictions coming into town for Welcome signs, as well?

Alex Donnan: I'm not sure. I'll find out. We have one on Route 16, but on the wrong side. It's kind of buried, just as you come in... No, I'm sorry, it's Cave Neck Road. As you come onto Cave Neck Road there's a sign that's kind of buried on the wide. It's a great big Welcome sign; we might consider juicing that up and elevating it, see if we can do that. We could also talk to the Barn. Someone thinks they're amenable to putting a private sign on that piece of property, so that's another possibility.

Vice Mayor Booros: Alex, the sign that got knocked down at Route 1 and Route 5 coming southbound from Milford, I saw the sign when it got knocked down the next day. Wasn't that on private property?

Alex Donnan: Don't know.

Vice Mayor Booros: Because when the car hit it, the car ended up in the pond. You could see the sign went in one direction and the tire tracks went into the pond.

Alex Donnan: It's possible.

Vice Mayor Booros: And it was the Chamber that put up that sign. It was originally... nobody would take credit for it in the beginning; but finally I think it was Charlie Fleetwood who said, oh no, we put up that sign. Nobody ever collected the insurance money on it...

Alex Donnan: We talked to the State Police and they had no record of it, even.

Vice Mayor Booros: But I think that might have been private property. I don't know who owns that property, but that sign had been there for years.

Alex Donnan: Yes.

Mayor Jones: Mr. Donnan, thank you, keep us informed.

Alex Donnan: Okay, fine.

Councilwoman Parker-Selby: I have one question. I loved the sign. I was wondering, we here discussed briefly one night about a saying, a little motto, or whatever, for our Town, like all these other towns have. Lewes, First Town, First State. My family was involved in getting that sign done years ago. So I'm thinking here Milton, this is beautiful if we could have our little motto, whatever it might be, Little Maybury of the 20<sup>th</sup> Century.

Councilman Collier: This is the 21<sup>st</sup> century.

Councilwoman Parker-Selby: 21<sup>st</sup> century.

Mayor Jones: Early on I had discussed perhaps a kind of a motto contest in Town might be a very uniting thing and put it out to everybody and put some folks together to look at that, so the time may come for that. Thank you for the information. You have no restrictions on your time? You're good with USDA on keeping your money to use and get through these obstacles.

Alex Donnan: I had to get an extension, I got a six month extension; so I've got it now until November, so we still have to keep moving. But we have plenty of funds.

Mayor Jones: Okay.

e. Appointment to Planning and Zoning Commission

Tabled for this evening per motion of Councilman Collier.

Mayor Jones: There were two interviews conducted in reference to filling that position and I have at least one more, before that recommendation comes to you.

f. Appointment to Water Committee

Mayor Jones: Tonight you have a recommendation for consideration/approval for our Water Committee, Mr. Dan Wellbourn and if I understand correctly, he is already entered the Town Hall on Monday and filled out the ethics form and I would ask for his approval to that Committee, providing that everything is fine with his ethics form.

Councilwoman Parker-Selby: I move that we accept Mr. Wellbourn for the Water Committee appointment.

Councilman Collier: Second.

Mayor Jones: Is there any discussion on this matter? All in favor say aye. Opposed. Motion carried.

g. Residential Waste Collection Invitation to Bid and Request for Quotation Specifications

Mayor Jones: Mrs. Rogers has prepared an invitation to bid for our waste collection.

Kristy Rogers: Yes, the current contract does expire September 30<sup>th</sup>, so it's time to release specification invitation to bid for our waste contract. The specifications does call for a three or a five year contract to be bid upon.

Councilman Collier: This is pretty much in keeping with previous contracts; just the change in the dates?

Kristy Rogers: Yes, I updated the residential unit quantity and left the calendar as far as collection being on Tuesday; recycling alternating every other week; as well as yard waste collections as they are now.

Councilman Collier: You were satisfied with the way that's run over the past couple of years?

Kristy Rogers: Yes.

Councilman Collier: I move to approve this going forward.

Councilwoman Parker-Selby: Second.

Mayor Jones: Any discussion on this bid process?

Councilman Coté: Small picky question. Where we tell them what color cans they have to have. It's Section VI, d.

Kristy Rogers: That would be for them to bid on they will provide the can.

Councilman Coté: If the current contractor were to bid and were to win, would this require him to provide a black or gray can to replace the blue one with the blue lid?

Vice Mayor Booros: There's also the company that all their cans are red and they have the little red-headed kid out there.

Councilwoman Parker-Selby: Does that mean we have to buy a new can?

Kristy Rogers: Maybe just change it to color shall be specified in the bid? I don't know; or should we limit it to color.

Seth Thompson: I think the bid was to have two separate colors, right. I suppose we could do that so in other words, a specified color for the solid waste and then recyclables shall be a different specified color.

Mayor Jones: They're all blue right now.

Councilman Coté: They're blue now, just with a blue top and a green top.

Councilman Collier: But they're property of the company that provides the service.

Councilman Coté: Maybe they could be separately identified as trash and recyclables; small, but it would be a shame for them to have to go pick up all the blue ones, the blue trash ones; if the same people won. If new people win, the other ones will go anyway.

Mayor Jones: Mr. Dailey, briefly. You'll have to come to the microphone.

Jeff Dailey, 211 Gristmill Drive: Point of information provided to Council. It's been brought up numerous times that our town by having two trash pick up days, recycling and trash, means that our pretty little town has unsightly trash containers out twice as often as might be necessary. If we had a contractor who would do both pick ups on the same day. Thank you.

Mayor Jones: I'm going to take a shot in the dark at this, but I believe the separation has to do with the regulation of partially that yard waste and that recycling being carried in the haulers to completely different places and cannot be intermixed. That may mean, may, all speculation; may mean that that company has to have twice as many trucks on the road in the Town of Milton on that one specific day; but I'm sure that that information will be heard as we go through the process. Thank you. So no need to

squabble about color? So we have a motion and a second to go forward with this bid process. Are there any other questions or comments? All those in favor say aye. Opposed. Motion carried.

h. Draft fiscal year 2015 Budget and Fee Schedule

Mayor Jones: Mrs. Rogers has completed our draft of the 2015 budget and Fee Schedule. This is being presented to you in compliance that it be presented by this date and it is not necessary to look at this this evening with a view to any specifics. This is just informational for you this evening. Mr. Thompson, in the Schedule, how far do we need to look forward to schedule the public hearings about our budget?

Seth Thompson: I will double-check.

Kristy Rogers: If I interpreted the Charter correctly, I have it scheduled for August the 18<sup>th</sup>. It is a Monday at 6:30 here in the library. I believe the budget had to be submitted to Council 60 days prior to the beginning of the fiscal year; no later, I believe, 15 days of public hearing had to be scheduled. So the 60 days will come a few days before the August meeting, but then taking into consideration to schedule a public hearing after that.

Mayor Jones: That looks like it's right on target then, for the 18<sup>th</sup>.

Seth Thompson: And then Council has to vote at the meeting after the public hearing. Now, in the past, that vote has consisted of a table, because sometimes it just wasn't ready, but there does need to be a vote taken at the meeting after the public hearing.

Mayor Jones: So we can mark our calendars accordingly for the public hearing in reference to the budget on August the 18<sup>th</sup>. Thank you Mrs. Rogers. I did sit through the Finance Committee review of the budget and I'd like to get on board also; they were very complimentary of the work that was included and the information, so I thank you. Do you have every intention of making this a much higher priority on our agenda of July the 24<sup>th</sup>? Okay. Were there any questions or comments about this document before we move on to our last item?

Chief Phillips: Yes, Ma'am. Will we have chance to talk about this with the Finance Committee at some time?

Mayor Jones: No, your time with the Finance Committee is finished. You'll be addressing Council, but I am thankful you spoke up, because I brought a document here and it had to do with the police and I wanted to ask you about it.

Chief Phillips: Because I didn't know if it would have been done last meeting, or I would have been there.

Mayor Jones: We didn't have any department heads at those meetings, as previously done, Chief. It was more of a streamline. They did look at this. They made some recommendations.

Chief Phillips: Will we ever talk about this again?

Mayor Jones: Yes, absolutely. But I want you to consider, if you will, and it will play out as we look at the police budget as a whole and that is the possibility of designating some funding for neighborhood watch. And the Finance Committee did make a recommendation to Council. That information should also be available to you. Okay?

Chief Phillips: I'm not sure I followed that last part.

Mayor Jones: The Finance Committee did come forward with a recommendation to

Council about this budget and you can review that.

Chief Phillips: Okay. Just check on grants or something for Neighborhood Watch, or something?

Mayor Jones: Yes, if you have a small amount of money. I have talked to Mr. Thompson about some possible brochures or pamphlets. I can't tell between the two of you, how many Neighborhood Watch signs you may have left to put out to the public, so information like that we can discuss further.

Chief Phillips: Okay, yes Ma'am. Thank you.

Mayor Jones: Thank you.

Councilwoman Parker-Selby: On that too, Mayor, I remember when Mrs. Rogers mentioned, asking if we could have some more things from the Neighborhood Watch on our website.

Mayor Jones: And he actually did. Mr. Thompson contacted and reached out to Mrs. Rogers. When I spoke to him, I did tell him that he is free to offer new material to Mrs. Rogers and shuffle it around and keep it fresh, so he's well aware of that.

Councilwoman Parker-Selby: Okay and the other comment I had was, when I got my packet I saw this paper, so I was wondering... I am sitting on a couple of other boards and they were doing all this paper, so they checked out to see if it was feasible to get I Pads, well not everybody wants an I Pad, but it kind of helps the secretaries or the people in charge; don't shake your head yet; and it also saves us some money I would think, so I would like to at least looking see how much we might save if the members of the Council could have I Pads, or something similar, so we could get everything on line and bring it with us. We could go online at home and bring it with us to meetings, rather than having to bring all these papers. Just worth looking into. You don't have to do it, but we can look into it, I hope.

Mayor Jones: What is the cost of a single I Pad? Do we have an idea?

Councilwoman Parker-Selby: You can get them, if you get groups of them, or a lot of them, you get a cheaper rate.

Mayor Jones: I enjoy writing all over my paperwork in referring back to that.

Councilwoman Parker-Selby: You could still do that. Bring your tablet.

Vice Mayor Booros: I don't know how to write on my tablet. It's here. I use it for stuff, but I don't know how to do all the...

Councilwoman Parker-Selby: For me it's real simple. I could bring one in and demonstrate it from one of my boards, how it works. It took us awhile to get used to it, but...

Vice Mayor Booros: Interestingly enough Madame Mayor, I got a thing from Cape School District that all kids coming to school in September will be issued a tablet.

Councilwoman Parker-Selby: Right, the students are now going to be using it, in all the schools.

Vice Mayor Booros: All the kids in September are getting tablets.

Mayor Jones: Didn't our taxes just go up for the school district?

Councilwoman Parker-Selby: We've got to get up with all the new things.

Mayor Jones: Thank you for that suggestion.

- i. An Ordinance to amend Chapter 220 of the Town Code, Entitled "Zoning", relating to

amendments to the zoning code

Vice Mayor Booros: Madame Mayor, can I give a tiny bit of background here?

Mayor Jones: Certainly.

Vice Mayor Booros: I sat in at Planning 101, 102 and 103 up in Dover with some other council members and members of the Planning and Zoning Commission at which point the question came up on the approvals by Planning and Zoning and recommendations from your Planning and Zoning Boards and your Board of Adjustment and stuff like that and the four-fifths issue came up, about having to need a four-fifths vote and I don't think it was quite understood last time, that we took this vote because Madame Mayor, you thought that we had passed whatever the Motion was. Because we didn't have a four-fifths vote, come to find out that out of 39 municipalities in this State, the Town of Milton and the City of New Castle are the only two municipalities that require a four-fifths vote as a super majority, to overturn a recommendation from everybody. So I originally asked that it be brought up and be put in as a simple majority. Now I understand the way this ordinance is written, if we change the four-fifths to simple majority, I now have to send it to Planning and Zoning for 45 days, for them to give us back a written recommendation on this. That's why this originally came up, because of the four-fifths vote. Well, while we were there, I figured the "shall" and "may" issue, since Mayor Jones tried to correct her vote at the next meeting and was told that it was too late to correct it; that was by the way, the January 16, 2014. We've since had an election and sat a new Council, which means this is coming back as a fresh start. April 1<sup>st</sup> was the first sitting of the new Council. So it's coming back again, but I am going to refer back to the minutes and Councilwoman Parker-Selby the reason these minutes completely transcribed was because I use them all the time. I go back to every word and Mr. Mazzeo, we had a public...

Councilwoman Parker-Selby: On your I Pad too, right?

Vice Mayor Booros: On my I Pad... Mr. Mazzeo, who was Chairman of Planning and Zoning Commission at the time came to the public hearing. We had 3 or 4 things on the agenda for public hearing. It was strictly a public hearing that was set aside, as Mr. Dailey has asked, strictly for public hearing. I think there were eight people in the room who quickly left and that left poor Mr. Mazzeo sitting on the front row to answer questions for Planning and Zoning and out of the three things that had been referred to Planning and Zoning for their recommendation and took 45 days, only one of them came back with a written recommendation that particular night and it was this one. We gave examples that night and Councilwoman Patterson gave some and Councilman Collier; this was on a public hearing on this exact issue here, the "shall" and "may". Councilman Collier said if there's a comma, instead of a semi-colon, it makes a difference in how you would read that line. We have to refer that to Planning and Zoning for 45 day review to get back to us with a recommendation that we need a four-fifths vote at Council to change a comma to a semi-colon. There were several examples given that night in the public hearing and the biggest one, one of the things we had asked for a written recommendation on once before, and I think they gave it back to us, was the FCC Regulation on Satellite Dishes in the Historic District and satellite dishes here, there and there; that went to Historic Preservation; that went to Planning and Zoning; we beat that around for six months when the bottom line was back in 1996 the Federal

Communications Commission issued a Federal law telling you that you can't tell somebody to stick it in their backyard, unless they're in a Historic District. You can recommend they put it in their backyard, but if they can't get reception in their backyard they can stick it on the front of the house and there's not a thing the Town can do about it. So for us to have wasted months and back and forth with Historic Preservation... in the Historic District we can ban them altogether. In a Historic District, ban them altogether. So once we went through these examples, over and over and over again, Mr. Mazzeo finally said and I'm going to read his words, okay, because he was the only one in the audience answering the question. "This letter with the recommendation was rapidly prepared and delivered to Mayor and Council in a direct response to this potential change, which was to basically remove Planning and Zoning and the public from the opportunity to have input. If, indeed, as Vice Mayor has indicated, there are certain times that indeed it shouldn't come to Planning and Zoning, then perhaps it should be brought to the table at that time, that it should not go back. As an example, you have an FCC Ruling there, I'm gathering. It should have never come to us." Bottom line. It should never have gone to them. We're not saying that every change to a Planning and Zoning Ordinance needs to be sitting at this table. All we're saying is there were two separate things in the Code that said... the first one said we can do it by amendment. This Council could do it be amendment. The second thing said we had to send it to Planning and Zoning for their recommendation and all we were trying to do was fix the contradiction in the Code. One way of fixing it was to just say, we'd like to send everything to them, but there may be times that we don't need to. This is not asking the citizens to give up anything, because we had a public hearing on the issue. We don't change these ordinances without some sort of public hearing, two or three notices; it's out there. That particular night where there were five or six items on there, that were big deal things and had been published, there were maybe eight people in the audience. That's it. Okay? I'm not chastising anybody for not being there. I'm just saying nothing's being done behind anyone's back. It was in the open. Don Mazzeo participated. Since there was such a small crowd, Mr. Mazzeo participated throughout the whole evening, so did Mr. Garde. I've got your comments on there too. Then the vote occurred and the vote went down and the Mayor said passed and the Solicitor here said, oh no it wasn't. You didn't have a four-fifths majority. So we just kind of let it die. She tried to change it the next week and was instructed that you have to do it within 24 hours, according to our Code. New legislative session, it's back on here again and it was back on here to change four-fifths majority to simple majority, is the reason that I asked that it be brought back; but I figured while it was here, the "shall" to "may" thing I would like to see brought up for another vote. Now I understand this all has to be sent to them, so I guess I would make a motion that we send the changes that we've proposed on here, to Planning and Zoning for their, once again, recommendation so that we can have a public hearing.

Councilman West: I'll second that.

Mayor Jones: Thank you for the background. Is there any further discussion on the issue?

Seth Thompson: Just to weigh in from my perspective the Vice Mayor touched on something and he's absolutely right, but it's also important to kind of reemphasize and that is, there is a public hearing at the Council level; this wouldn't change that, so to the

extent that Mr. Mazzeo referenced that it would remove public comment; that's not really accurate other than any public comment that would be heard at the Planning and Zoning level. The public hearing that's noticed 15 days in advance in the newspaper; that happens at the Council level and this ordinance wouldn't change that.

Vice Mayor Booros: And in the case of this particular ordinance and several others that night, there was nothing else on the agenda but public hearings specifically for those ordinances. It wasn't shoved in along with a Town Council meeting.

Mayor Jones: Are we ready to vote?

Councilman Coté: Just repeat the motion.

Vice Mayor Booros: The motion is to refer this to Planning and Zoning, in accordance with the current ordinance that says we "shall", for their written recommendation on the changes proposed.

Mayor Jones: That would be the "may" to "shall" and the four-fifths majority, to a simple majority. I don't think we need a roll call for this one, just to refer to Planning and Zoning.

Councilman Collier: It's within process.

Mayor Jones: All in favor say aye. Opposed. Motion carried. I have one piece of back-up request here for those who looked at this and that was what was presented to us by Mr. Davis under the proposed idea of home occupancy. Mr. Thompson may be the person best to answer this. Under the advisory report Mr. Thompson, under 3, reasons for recommendation. I want to make sure that this action has actually not been adopted. The change to the Special Permitted Use jurisdiction from Planning and Zoning to the Board of Adjustment, fits with the more traditional role of Board of Adjustment. If I recall, the major argument there was that the Board of Adjustment is a binding board and once they hear a case, it cannot be appealed back to Council, as opposed to Planning and Zoning. That was never adopted, was it?

Seth Thompson: I don't believe that was, no.

Vice Mayor Booros: It was that same meeting Mayor and the minutes are available on line to see what happened...

Mayor Jones: I just want to make sure that that hadn't taken place.

Vice Mayor Booros: That would be a case where you would be taking away one level of the public's ability, after they leave us, then take us to Court; you know what I'm saying. There was another level in there, between Planning and Zoning and us and then I guess you could go to Board of Adjustment or Planning and Zoning/Board of Adjustment; I don't know how that worked.

Councilman Collier: The other issue is if you try to push this off on the Board of Adjustment, it seems to me that sometime back the Town through either ordinance or charter limited the Board of Adjustment to basically hearing height, width and bulk requirements; that would be outside of height, width and bulk; a lot of it. So now you're looking at having to not only your ordinance there, but maybe fix it in several other places?

Mayor Jones: It changes the charge.

Councilman Collier: It changes the charge of it, so that's the other thing you have to consider. It's not just a simple as shoving it off to the Board of Adjustment.

15. Adjournment

Mayor Jones: Hearing no other discussion, could I hear a motion to adjourn.

Councilman West: I make a motion to adjourn.

Councilwoman Parker-Selby: Second.

Mayor Jones: All in favor say aye. Opposed. Motion carried. Meeting adjourned at 9:48 p.m.