

**Milton Town Council Meeting  
Milton Library  
121 Union Street  
Monday, October 7, 2013, 6:30 p.m.**

**Transcriptionist: Helene Rodgville  
[Minutes are not Verbatim]**

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

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

5. Public Participation

Mayor Jones: We'll start the public participation this evening with Mr. Palmer.

- Robert Palmer, 504 Canning House Row: Mayor and Council, I apologize for being premature at the last Public Hearing. As I began to say, my reason for being here tonight is I saw in the New Business of tonight's meeting that a discussion was going to begin regarding reclassifying home occupations from a special permitted use to a permitted use. Regarding home occupations, the Code, and I'm not an attorney, but as I read through the Code there's two places where home occupations show up. One is in the definitions in Section 220-6 and the other location is Section 220-51 and it appears to me that there is some ambiguity about what would be considered a home occupation. I'm a Civil Engineer and I currently am operating my engineering firm at my kitchen table. I don't generate any traffic, noise, pollution and I have no traffic, however, I do have a business partner and one employee. I live, as I said at 504 Canning House Row and my traffic would be no more than the folks that live in Cannery Village that have roommates and there are several in the area where I live. What I would like to see changed in the Code regarding home occupations, would be it says in the definition any occupation, profession, enterprise or activity conducted solely by one or more members of the family, on the premises; by having non-members of my family working with me, that would force most of the professional offices, which are discussed in Section 220-51 to go for a Conditional Use. By cleaning up that ambiguity, I think that would allow home occupations to be a little more broad. The only other comment that I have regarding home occupations, is in Section 220-51, home occupation is limited to no more than 25% of the total floor area of the dwelling, or 500 square feet, whichever is less and I

would recommend just for clarity to maybe limit it to 500 square feet, as opposed to 25%, whichever is less. That would allow the average home of 2,000 square feet. Anything over that, they would be limited to 500 square feet, but anything under that, they would be allowed to go up to that maximum. Thank you.

Mayor Jones: I have a question for you, Mr. Palmer, if I may. Do you hold a State License?

Robert Palmer: Yes I do and I was aware of the business license and earlier this summer before the letters went out to the masses, I applied for a business license. So I kind of got stuck in the fray with everyone else and Mr. Davis suggested that maybe I should come up and speak a little bit about my particular case.

Mayor Jones: Thank you.

Robert Palmer: Yes, Ma'am.

- Ed Kost, 230 Sundance Lane: Mayor Jones and members of Council, I just would like an update on the status of what's taking place at Cannery Village. Your complaint has been complete and is being held at this point; the punch list, what is the status of the punch list, the revised punch list? Does anybody know?

Seth Thompson: I haven't been in communication. I know they did it two weeks ago, if I'm not mistaken; I spoke with one of the principals of the developer was a few days prior to when they were going out to do the punch list; so I haven't received a response, but I wasn't expecting to be included on that...

Ed Kost: I thought the Town was revising the punch list... the Town Engineer's revising the punch list, to supply it to the developer. Has the actual revision been completed, is what I'm asking?

Seth Thompson: And I don't know. Not to my knowledge, but it could have been received directly by the Town, as opposed to going to me.

Ed Kost: Director of Public Works, would he know?

Dustan Russum: Yes, I did the punch list along with Horsey Construction and now it was going forward to the engineer's to review it.

Ed Kost: Thank you. Do you have any idea when it may be completed?

Dustan Russum: I'd say a month.

Ed Kost: Thank you. In that case, I understand the status. We're still in a holding pattern, waiting for the punch list and the developer's response to the punch list when it's presented to them. In that case, when the punch list is completed, I'd like to get a copy of it; or should I submit a Freedom of Information request?

Seth Thompson: You can do that through the Freedom of Information; you would be able to do that.

Ed Kost: Okay. Thank you.

- Jeff Dailey, 211 Gristmill Drive: Thank you Mayor and Council. Regarding the punch list, I would hope that everyone on Council would want to peruse it very, very carefully because if there are cracked sidewalks that are being approved, or curbs that do not meet the requirements for disability, etc., eventually the Town will be paying for that. So I would love to see this punch list made public; citizens should not have to go to a Freedom of Information to have access to that. I think that would be something we could do that might then be a model for towns throughout Sussex County. The main reason I'm taking your time this evening, is because not that this is... well Cannery Village keeps

coming up because we want to get it right. It's another neighborhood in Milton, an Homeowner's Association neighborhood, but the dilemma of locating permanently the propane tank farm to serve the households in that community is still on the boards, so to speak. I've talked about, no matter how well intentioned our Planning and Zoning folks are; we have a major flaw in this Town, in the way Planning and Zoning communicates with Council in many instances and on many matters and essentially we've got a Planning and Zoning Commission that is not steeped in the history, oftentimes doesn't have all the information they should have before them and Seth, I know that you guide them through; so this is no reflection on you; but I think I've lived here longer than you've been Town Solicitor and many folks who attend Planning and Zoning and watch these issues are in that boat. So first of all, at Planning and Zoning committee meetings on many subjects, people from the public should be able to come forward and speak as experts and the same should happen here. The so-called experts, they may be new; or they may have a vested interest, because they're getting paid to speak on someone's behalf, such as a developer. Okay? So now I have a vested interest in my home, in my neighborhood. I want the best for my neighborhood, because I want my neighborhood ultimately to be a positive reflection on this Town; but what you've got and I've asked this question so many times and Seth, maybe you can help me; there is a temporary propane farm that is located on open space in this development; this Homeowner's Association neighborhood development. The developer wants to dismantle this temporary propane tank farm and put it permanently on what is called open space. Now, if they put a temporary farm on open space, that meant they were going to dismantle the farm and the open space would forever be open space in that development. So why are we discussing in Planning and Zoning something that you may have no control over, as I understand it. They're the ones who vote. Why would you put a permanent tank farm on open space? And no one... nobody, I brought this up four times now; nobody can answer this question and I saw the article... Sussex County, the Sussex County Council; they're questioning what is meant by open space in the county, because of the botanical gardens that is planned. Okay, well that doesn't relate to us, but here in the Town of Milton, in an Homeowner's Association neighborhood, that was approved with designated areas as open space, will somebody please answer the question; why is this permanent farm being considered in one location and one location only; the Town has not requested the developer to get other sites and it's open space and it will never be open space once a permanent tank farm, partially submerged, surrounded by eight foot fencing, is there for all eternity. I don't understand the relationship in this Town between Planning and Zoning and the Council and this town has lost out on more than one occasion and until this is addressed, we're going to shoot ourselves in the foot, time and time again. So please, will somebody answer that question? How can you put something permanent on what was designated open space? Thank you.

Seth Thompson: Okay and I'm operating off of memory here. It's more of an engineering issue. Your definition of open space in your Town is broader than just grass.

Councilman Collier: Dedicated to public use.

Seth Thompson: That's right, so but if I'm not mistaken, I think the engineering answer to why it could be moved, is that you're not changing the ratio of the open space to the development; by moving it from it's current location to a different location, you're keeping the same amount of open space. Again, that's not a legal... I'm operating off of memory.

Jeff Dailey: Okay. I know that, but the designated area is recorded in the court house as open space; that much I know. Alright? We know a major land transaction took place. We know the developer owns more land, much of which is for commercial use in future. We also know that it would cost that developer more money to put the permanent tank farm on that location, because he would then have to run pipe to the main body of houses. We also know that right-of-ways, that weren't obtained before the sale to Dogfish Head, a part of Cannery Village, were not obtained. It doesn't mean they can't be obtained for running a pipe from the other end, the more commercial zoning, into what is now purely residential. Look, I don't know. I'm not an engineer. That location may be the best location; it may be perfectly legal to put it there; but here's what we've got, guys; a developer comes and says this is where I'm putting it and nobody challenges him; nobody says what are the other options; what other alternative sites can you name Mr. Developer? He's not volunteering. The Town isn't being at all aggressive. We're just rolling over and playing dead and Planning and Zoning, they're the ones who approved this. It doesn't even come back to you. How can we run a Town like this? It's a quality of life issue. It's not an engineering issue, in my heart of hearts. It's a quality of life issue. That should remain open space. It's adjacent to a pool and clubhouse. It's an area where people bought homes looking over open space, which will now be a partially submerged tank farm with 8' fencing around it. Come on. This is just one example affecting one neighborhood, but I assure you these kinds of things have come up in the past, they will come up again. We have got to change the Charter. This is huge, people. This is going to destroy quality of life, if not in my neighborhood, in this instance; in another neighborhood down the road, a year from now, two years from now. Something has got to be done and somebody still has to answer. Is open space recorded in the Courthouse? Protected? Yes or no.

Seth Thompson: Are you talking about a sub-division plat that's been approved? Because then it's going to go through the process of the site plan, which you're right, only goes through Planning and Zoning. It doesn't come back to the Council.

Jeff Dailey: Right. Right. Right and two minutes ago... I really hate to take so much time, but the point is we're talking about a punch list; where the driveway to this propane farm is going to be situated is a water collection site, because in the process of relocating and relocating and relocating the health club facilities, the developer bypassed infrastructure, so now where this driveway is going to be, the water can't go anywhere. That means road bed will erode and once this Town takes over all of this non-infrastructure and pooling of water, you're going to pay for it, you're going to pay for it, all the people across this Town will pay for that and it's Cannery Village, but it's also Milton and we're not getting it right on so many fronts. We've got to do better. I don't know if the Town Engineer, the consulting engineer is not doing his job. There should be alternatives being offered to this Town, to every citizen, not just the people in Cannery Village, as to where this propane farm could be located, should be located. Nobody's thought about the parking lot that covers over a brown field; could we get DNREC approval to dig and place this kind of item on that kind of land? It's not going to be disturbed forever; so maintenance in 50 years; nobody is asking these questions. Nobody and I don't understand it. We are like... We're duck, blind, dumb, whatever; we're not there and we've got to get there. I'm sorry, or this Town will fail time and time again. Thank you.

Mayor Jones: Before you sit down, I have a question. I was not there, Council was there;

Planning and Zoning; what kind of authority or leverage did the Planning and Zoning Commission have at that point to not argue with the developer; but to offer options to the developer.

Jeff Dailey: The developer offered options and basically said, if you allow me to do this now, I promise you I'll do this in future and it had to do with paving a section of roadway; primarily the roadway that runs in front of Dogfish Head and into Cannery Village Boulevard and into the development. So I hate to say it, and please, don't misunderstand, I think the world of everybody on Planning and Zoning. They're really stepping up and doing a great job and Seth is there to guide them; but in the meeting I witnessed, the developer was calling the shots...

Vice Mayor Booros: And I was in that meeting, Madame Mayor, and so was Councilman Coté and the developer called the shots. Planning and Zoning just rolled over and played dead.

Mayor Jones: So my question goes back actually to Council; the authority of Planning and Zoning at that particular meeting to deny the developer where he wanted to put it. I think that's my core question. That's not for you Mr. Dailey; let's see if Mr. Thompson can help me with this.

Seth Thompson: Yes, from a theoretical standpoint, I think it's important to understand, it's generally a free use of land; so if you want to equate it to somebody constructing a home; if somebody walked in and said here's my site plan. Here's where I'm going to build my home, as long as they're code compliant, the Town can't turn and say well I think you should build a bungalow instead of a two-story house; or I think you need to just put that back differently. By way of example, you have your building envelope, using your setbacks and that person's able to make decisions as far as where they put something. Obviously, it's a little bit more complicated when we're getting into a utility...

Jeff Dailey: Mr. Thompson, I'm going to take your analogy for just one moment. Just a minute. I'm going to take your analogy. If I decide to build my house and all of a sudden I wake up one morning and I decide I'm going to build it two feet from the lot line, instead of the prescribed setbacks; that's not going to fly and if I build the house, the Town will come and I will have to lift that house up and move it to where it's supposed to be. That's more analogous with what is happening with this developer and many of the residents know the history of relocation of commercial shops and the health club facility. This, the one constant, is that this space has always been open space and now it won't be and I do not understand this. It's a quality of life issue. Milton, every person in Milton, should be interested in it. They're not, because it's not in their backyard, but if this town has an attitude of not in my backyard and we continue to have this weird relationship, ships passing in the night, between Planning and Zoning and the Town Council, we will shoot ourselves in the foot time and time again. I'm only up here speaking because this is a perfect example. This is textbook of what this Town cannot do any longer. The problem has got to be fixed. That's what I'm bringing to you.

Vice Mayor Booros: Madame Mayor, may I say one thing? I was in that meeting. The person that made the motion to move that tank farm and to approve that tank farm did not vote on that motion that he made; the person that seconded that motion was the person who lives right next door to the existing tank farm that was going to be moved outside of his house; he stood to gain by that motion being passed. So the person that made the motion, didn't vote; the other person seconded it; it never should have occurred that way; it was allowed to occur that way; I was in the audience and was not allowed to

say anything. That was one of my instances at Planning and Zoning and it just happened to be the one that Mr. Dailey was at.

Jeff Dailey: Thank you very much Mayor and Council. I've said more than enough, I'm sure everybody in this room agrees with me, but you can see my passion and I hope that you will take what I have to say to heart. Thank you.

Mayor Jones: Thank you.

Councilwoman Patterson: Thank you.

- Ed Kost: Mayor Jones, may I follow up with just one small point on the tank farm. The tank farm is placed on a piece of land that's on a Recorded Sub-Division and the space is recorded as open space; the tank farm is going to become a permanent, commercial structure on residential open space. That was never considered. In other words, this is really a de facto rezoning; the temporary tank farm was not supposed to ever... It was supposed to be removed and it's space becomes open space. What took place here is open space is now created into a tank farm, which is selling propane, literally a monopoly; we have no choice about any of that and don't get me wrong, at this point, we have to have a new tank farm. The one they have is not functioning and failed a number of times in the recent past. We need a new tank farm, but I think when it comes to procedures of how you're supposed to do things, in this case, they were ignored; basically ignored. When I was on Planning and Zoning, we were advised, as members of Planning and Zoning, if you had a direct benefit to something that was being considered by Planning and Zoning, you had to recuse yourself. I asked the attorney at that time, I forget the ladies name... John Brady and the lady who came after him.

Seth Thompson: Mary.

Ed Kost: That attorney, I asked her... I live in Cannery Village, if anything comes up on Cannery Village am I supposed to recuse myself? The answer was absolutely. In this case, here are residents of Cannery Village making motions and voting on the motions yet. I'm sorry. That's not how it's supposed to be done.

Mayor Jones: Any legal comment that you would like to make?

Seth Thompson: Part of your Zoning Code in all our districts is Public Utilities and essential uses, so it's not... Based on that, I think your Zoning Code it would be the equivalent of somebody not being able to have a propane; obviously it's a smaller scale; but not being able to have a propane tank on their property. The way your Zoning Code is drafted, a utility can vote.

Mayor Jones: So essentially this was not rezoning?

Seth Thompson: Correct.

Mayor Jones: Okay, it is 6:53. We'll close the public participation.

#### 6. Additions or Corrections to the Agenda

Mayor Jones: Are there any additions or corrections to the agenda? I have one. I'm requesting that Item 15, Executive Session be moved up underneath of 13, c. Are there any others?

Vice Mayor Booros: Madame Mayor, the Security Fence Installation under New Business, I don't necessarily know that there's an awful lot to say about that, so I would ask that you probably strike that from the agenda, unless somebody else has something to say about it.

Mayor Jones: Any other changes, modifications?

7. Agenda Approval

Councilwoman Patterson: I make a motion to approve the agenda, as amended.

Councilman West: Second.

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

8. Presentation and Approval of Minutes of August 20, 22, 29 and September 9, 2013

Mayor Jones: In your package to review were minutes from August 20<sup>th</sup>, 22<sup>nd</sup>, 29<sup>th</sup> and September 9<sup>th</sup>.

Councilwoman Parker-Selby: Mayor Jones, I do have some comments, but should I wait until you go through the motion?

Mayor Jones: No please. On the minutes?

Councilwoman Parker-Selby: Minutes.

Mayor Jones: Yes, please.

Councilwoman Parker-Selby: I think everyone knows, I'm going to speak very slowly and clearly into this microphone, because when I read these interpretations of the minutes, I get a little concerned as an educator and when I saw one set of minutes, it looks like I have no education in some of the ways the sentences are placed in spellings and so forth and I still want to address the fact that I have a big problem as the Council knows and the community, with how we have our minutes. I especially want to address and I'm not going to take a lot of time with it, the September 9<sup>th</sup> interpretations here, where on page 14, we have company's, to stand for companies plural in the spelling. Now the public looks at all this, correct? Make sure I'm correct.

Mayor Jones: Once approved. Yes.

Councilwoman Parker-Selby: Yes and I am embarrassed that the public is looking at some of the ways that the sentences and the spellings and so forth are going with this, that's why I would like to, in some kind of way, I don't know how, if we can get to the point where and I know I've been told, no it has to be like this; we can have minutes that are readable with the main points of our meetings and not to have to take all day and all night to read through every word. The other thing I wanted to address was page 18, bear with me quickly here; and these are my comments supposedly and I remember addressing or asking Chief Phillips a question. It says Chief Phillips under complains; what kinds of things fall under complaints? Now if I said under Complaints the first time, it says complains; but yet the second time it says complaints, which totally is confusing when you read this and I know I know how to speak. I've spoken for the United States Joint Finance Committee, so I know I know how to speak the language for a meeting like this; but when you read it, it looks as though I have no kinda education here or cannot speak or sentence structure is wrong and that bothers me, because students of mine are parents and so forth in this Town and they read it. Ms. Selby is talking like that now? Or what you? And then they're like I don't really know about proper grammar and speaking and that type of thing. Yes. So. Page 23 is one more and like I said, I'm not going to spend a lot of time with this, but I just have to get it off my chest. Councilwoman Parker-Selby, that's something that's been very year; when it should be every year. Then I did find one also, Mayor Jones, just for you on page 40. This by no means is all of it, I just kind of wanted to bring this up again tonight. Where is Mayor Jones? Dear, I guess I forgot to highlight it, but there was one I said I want the Mayor to see hers. Oh, yeah, page 40 it says Mayor Jones: The reason I say that and I didn't meant no malice in saying that you... I mean, I just wanted to bring this up. It gets on my nerves, but we can do whatever we want to do, but I just can't stand it. That's all I have to say.

Mayor Jones: Thank you. Anything else on the minutes this evening?

Vice Mayor Booros: I'll make a motion that we accept the minutes, as corrected by Councilwoman Parker-Selby.

Councilwoman Parker-Selby: That's just a few corrections in there...

Councilman West: I'll second that.

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

9. Mayor's Report

Mayor Jones: I do have a little bit of news for you this evening. I wanted to let the public know that on October 3<sup>rd</sup> the Council through prior discussions made a decision to make an offer, a temporary designation offer to Mrs. Rogers here, for the limited term of Town Clerk. It is a decision and a confidence that the Town Council has put in Mrs. Rogers to go forward and carry us forward, while we make our way without a Town Manager. No decision has been made past the limited term that we've offered Mrs. Rogers at this time, but I am grateful to say that she has accepted that offer with us, so any dealings that you have right now at Town Hall will come through Mrs. Rogers and I hope you will join us in welcoming her and giving her the confidence that we feel in her term. So I think that's great news and it gives us someone at the helm to kind of keep us straight and as Mrs. Rogers, we will all be fine.

10. Discussion of Written Committee Reports

Mayor Jones: Which we really don't have any. I'm sorry, we do have the one from the Historic Preservation in front of us here, in reference to 306 Union and the second agenda which was referred to Council regarding an Ordinance; Dish antennas on the fronts of the houses in the Historic District. The recommendation that came from Historic Preservation Commission at the time, was to ask Council to look at that more at a perspective from a town-wide application, rather than just the Historic District. This would place satellite dishes and the like, which we happen to have one up on Broad Street, if you haven't been down in the Historic District, right up in the front yard. So, we will visit this and take a look at this further on the recommendation of Historic Preservation. Are there any comments on these recommendations? Does anyone know if the Historic District was looking further as to ordinances that may cover this? I know Georgetown has one, so it is available, no sense in reinventing the wheel. They have a rather... Mr. Dvornick has a rather good one in Georgetown right now.

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

Mayor Jones: Public Works?

Vice Mayor Booros: Madame Mayor? I have two questions. One is who is Horsey Construction that helped do the punch list? Where did we pull them out of?

Dustan Russum: Horsey Construction, that's the one that the developer... it's their choice of contractor that they're going to use.

Vice Mayor Booros: Okay. And we had 60 accounts that had to have their water turned on and off in one day?

Dustan Russum: Correct.

Vice Mayor Booros: Or you just did them all in one day?

Dustan Russum: We just did them all in one day. Kristy provides us with the list of...

Vice Mayor Booros: Is that an average amount of people that get shut off in a quarter?

Dustan Russum: It's up and down. I think last quarter was probably about 50.

Vice Mayor Booros: It just seems like a significant amount. And last but not least, a little bit further up, what rain did we get that washed something off the sidewalk? Because it hasn't

rained in the last four weeks?

Dustan Russum: None.

Vice Mayor Booros: Okay, just wondering about that.

Mayor Jones: Mr. Russum, just as a matter of housekeeping, would you kindly initial your report as owning this document?

Dustan Russum: No problem. I just got reminded of that this afternoon.

Mayor Jones: Thank you.

Dustan Russum: Yes.

Mayor Jones: Anything else? One thing, just as a follow up, the agreements that were given to you this evening, you're still working on that issue; that seems to be very conflicting. We're talking about an issue at the bridge, where a sidewalk problem that Mr. Russum is dealing with DelDOT.

Dustan Russum: Just reading through some of it, some of it is black and white, and then some of it is in the middle. So it's going to be a battle.

Mayor Jones: Because the folks you met with last week, really indicated that they felt it was possibly the State's responsibility.

Dustan Russum: Uh-huh.

Mayor Jones: So you'll know which to go forward?

Dustan Russum: Yes.

Mayor Jones: Okay.

Vice Mayor Booros: Madame Mayor and maybe I should have done this during public participation, but I got an email right before I came to the meeting from a company, amwater.com, that is going to start... American Water Resources of Delaware, that's going to start sending letters out to residents of Milton about their water pipes between the street and their house and I think it's going to be like trying to sell them some sort of insurance policy. They sent it to me as the fact that I'm a member of the Town administration or whatever it is, but they did explain at length, that they are going to contact every Milton property owner about taking care of their pipes between the street and the house, so just notice beware, it's not the Town making this contact. It's a private company.

Jeff Dailey: Tidewater's been doing it for months.

Vice Mayor Booros: Tidewater owns the sewerage treatment plant, they don't own our water system. We own it.

Jeff Dailey: They've been doing... they're \_\_\_\_\_ for months.

Dustan Russum: They've been doing that for...

Jeff Dailey: We're getting these insurance offers from Tidewater.

Councilman West: For over a year.

Vice Mayor Booros: Okay.

Councilman Collier: I get them more often than I get bills.

Councilwoman Parker-Selby: Yes, I do too.

Vice Mayor Booros: I thought those were for our sewer pipes.

Dustan Russum: No, Tidewater offers the same program for water and sewer; just make it clear that when you do do this, the Town's responsible up to the curb stop; from the curb stop in, is on the homeowner. I don't really know what their program, what they pay for it, but I know there's been a couple of people in Town that have had it. I had a gentleman on Chestnut Street, he signed up for it and two months later it benefited him. He got a new service line.

Vice Mayor Booros: I don't know. I just know I got an email before I came here tonight saying they're going to approach all the residents in Town.

Councilwoman Parker-Selby: May I speak to that, as well? We have been receiving that particular information for awhile; those of us who annexed into the Town and some of the senior citizen people are concerned because they say we haven't ever had problems with our pipes. They think maybe they might sabotage and do something to the pipes and what have you, so we need to pay close attention to that, because we have not had any problems. I don't recall any and I'm how many years old? We don't want to start having problems, just because somebody's sending out these insurance... we all need to pay attention to that.

Dustan Russum: It's only going to benefit, I would think, if you're in a new development the changes of you having a problem are few and far between, but for some reason if you've got an older house and you've got an old galvanized line, it might benefit you. So you either pay a little bit a month, or however the program is set up, where you pay a lump sum when it happens.

Councilwoman Parker-Selby: Hopefully, it won't happen.

Mayor Jones: Planning and Code.

Councilman Coté: I was going to ask Mr. Davis a question, as long as I got mentioned in the report, about finding out... all the plans and the approvals for Cannery Village, so we would have what we need to have when the punch list comes up for discussion; how is that going?

Robin Davis: I've not got it completed, but I'm probably halfway done with my research. We're trying to find all those approvals.

Councilman Coté: Okay, so you have half the documents, so you've only looked in half the places.

Robin Davis: Again, with Cannery Village as far back as it's gone, there was a lot of information that was spread out, so there's places that probably need to be looked at some more, but the main portions of what I found for the phases that we've talked about before, I found a lot of the information.

Councilman Coté: Okay.

Vice Mayor Booros: Mr. Davis, on page 4 of your report, the parcel of land between the river and M&T Bank, Governor's Walk Extension ownership question from representatives from the bank; is it the bank asking the question?

Robin Davis: Yes, the bank is getting a tax bill on that piece of property so they called and asked us to research. The County doesn't show it as the bank's. It shows it as the Town's. So I've had to do some research to find out. It looks like it went back and forth between the Town and the previous ownership of the bank, Sussex Trust. Then there was a swap with Wilmington Trust. Now M&T. There is a plan in the property file that shows it was an easement plan that was done, but now there's also...

Vice Mayor Booros: Can't they just do a Quit Claim Deed, get them to sign it over to us and call it quits?

Robin Davis: I think the bank is happy if they don't own it. They don't really care. They just wanted to let us know they weren't going to fight for anything; they just said if it's not there, they don't want to continue to pay taxes on it.

Vice Mayor Booros: Can we make sure it's not theirs?

Robin Davis: I would say, just by looking at some of the documents, I would say it did get turned over to the Town, when the Governor's Walk got done.

Vice Mayor Booros: Good.

Mayor Jones: It may be for Robin, it may be for Mr. Thompson. What is the latest update on Dry Zone? They've been holding off on working with an engineer?

Seth Thompson: When I last spoke with their attorney, they were soliciting bids for building the building; they haven't submitted their application yet; but building a building that would house

the materials that are currently sitting outside. But I haven't seen the application. Mr. Davis, have you?

Robin Davis: No I haven't.

Mayor Jones: I understand they may have awhile getting their design ready, but this has been quite a lengthy process and I think we established that they are storing things on top of the...

Seth Thompson: Outside.

Mayor Jones: Outside and they're still doing that.

Seth Thompson: Right.

Mayor Jones: So as we wait for them to come forward with a design, they're still in my interpretation in violation, so what can we do to move that forward?

Seth Thompson: We can give them a firm deadline and again, I think it's at least a tacit admission on their part that by building the building, they're correcting the outside storage issue, but that seems to imply that they understand they shouldn't be storing it there, so the Town is within it's rights to issue a citation for them. I think the Town generally tries to work with people in getting something remedied, rather than citing them, but Mayor you're absolutely correct. It's been awhile. It's been several months.

Mayor Jones: It's been a long time, yeah it's been a long time. Also, I'm going to go on record, I mentioned this to Mr. Davis this evening, but I'm going to go on record as saying, the ambulance that was parked across the street, that has a dead tag, marked '07, is parked on the corner of Hazzard and Atlantic and it's been there for weeks, if not months; let's say the summer. It is an unregistered motor vehicle and I see that Mr. Trotta has hit somebody on Federal Street for an untagged vehicle, so please make sure he gets over there and takes care of that.

Robin Davis: I sure will.

Mayor Jones: Thank you. Anything else on Planning and Code? The Police report. Chief, thank you very much for adding the column showing the comparison from last year.

Chief Phillips: Yes, Ma'am. I just wanted to add also that a robbery suspect that we had that occurred on the 13<sup>th</sup> at the school, we apprehended the subject with Dover Police Department's help. They got him and he had charges on him for guns also and we did get him arrested.

Councilwoman Parker-Selby: I think what jumped out at me was 223...

Councilman Collier: That was in August.

Councilwoman Parker-Selby: Oh this was, yeah, it jumped out in August of 2012 and then 34 August 2013. What happened? That's good, but from 223 to 34; that's a big jump.

Chief Phillips: Basically it's manpower. When we had 10 to 11 officers, there was a lot more proactive going on and now that we're down to where we are, it's just taking them as they come.

Councilwoman Parker-Selby: What do you mean taking them as they come?

Chief Phillips: Proactive, meaning if you stop somebody, find drugs or find guns, you take appropriate action and these others maybe just responding to complaints.

Councilwoman Parker-Selby: Just speeding or something.

Chief Phillips: A little bit of everything.

Vice Mayor Booros: Is that a complaint? If you stop somebody, is that a complaint?

Chief Phillips: No, but if you find drugs or they lie to you in criminal impersonation, or commit a crime, then it turns into a complaint.

Vice Mayor Booros: Okay.

Councilwoman Parker-Selby: Okay.

Vice Mayor Booros: Maybe crime's just gone down?

Chief Phillips: I don't know. In the news it said that Delaware is the fourth highest violent crime

in the United States at this time, so I'm not sure what that means.

Councilman Collier: That's per capita.

Mayor Jones: How are we doing and where are we on the ordering of the solar sign?

Chief Phillips: Hmm. Basically, I've been in contact with some politicians and I believe it's three-quarters of the way done. They're going to take care of it and save us the headache of everything. I can brief you later on the details if you wish?

Mayor Jones: Yes and I'd like a time line too, so that we can go ahead and get this thing moving.

Chief Phillips: Okay. That I'll have to reach out back out to them and find out exactly how fast they work, but I will find out as soon as I can, yes.

Mayor Jones: Okay. Anyone else on these reports?

12. Finance Report

Councilman Coté: Well just briefly, we don't have September. We have August and as of the end of August, revenue is approximately \$70,000 ahead of budget. It comes from a number of places transfer taxes, building permits, collecting of some professional fees, the FEMA money that we received and a little bit on some sewer activity. Expenses look like we're going to... expenses are, as of the end of August, look like they're about a month's worth of activity until we get to the end of September and barring nothing big in September, we will be about at budget.

Mayor Jones: That is good news. Anything else on the Financial Report? Before we move out of the reports, I failed to tell you under the Department Reports, that in the month of October, I am proud to say that our Public Works Department is supporting Breast Cancer Awareness Month and you will see our worker's around town in pink. I think that's very bold of them and I've very proud of them for taking the initiative. It's a great cause and it's very nice to see Milton behind that effort

13. Old Business – discussion and possible vote

a. Water meter upgrades – status and next steps

Mayor Jones: Dustan you must have this information.

Dustan Russum: Yes, we got the commercial accounts done, the car wash got done I think it was like two weeks ago, we got that one in. It took a little longer than anticipated, we had to do it at nighttime after the restaurant shut down. Right now what we've got left, we've got eight residential meters to get done; that was reduced from I think it was 11, is what we had, so now we're down to eight. Just trying to get up with these people, it's been a battle.

Mayor Jones: Is there anything that anybody can do to help this situation for you?

Dustan Russum: I can get the names and all and I can email all the council people, so if you know them, or if there's any other committee members if it's their neighbor, maybe then can... Most of the ones that we've got now, for instance, there's a property on Mulberry Street, they're not around here and we've mailed and tried to make attempts, so nobody's living there so I know nobody's stealing water, but still I need to get one in there.

Mayor Jones: Have you just haven't been able to contact?

Dustan Russum: No, I haven't been able to contact.

Mayor Jones: Okay.

Dustan Russum: There had been letters sent out about two months ago.

Vice Mayor Booros: Are the letters sent to the address on the house, or where the tax bill goes?

Dustan Russum: Where the tax bill goes, I believe it was.

- b. An Ordinance to amend Chapter 220 of the Municipal Code – to re-classify certain conditional uses in the Town Center District (second reading)

Seth Thompson: Madame Mayor, my suggestion would be, again, it's just a suggestion, but my suggestion would be that due to the conflicting nature of your Code Sections, that it be referred to Planning and Zoning for their meeting this month. The reason I suggest that is based on the fact that because the two Code conflict, you're essentially reading out... By taking one approach, you're eliminating the other; so if you do refer it to Planning and Zoning, you're rendering a nullity of the fact that you guys can do it on your own motion, which is a little bit odd; just the typical cannon of construction is you're supposed to give every word some meaning. There shouldn't be any surplus in there, but then going the other way, if you do it on your own motion, you're reading out the language that says every proposed amendment shall be referred to Planning and Zoning.

Vice Mayor Booros: And quite honestly Counselor, that's what I think we should do. I think this Council should not be held hostage to Planning and Zoning; because there are cases that are not going to want to go before Planning and Zoning.

Seth Thompson: And I understand.

Vice Mayor Booros: So if we vote on it tonight and we have an affirmative vote, we've in essence said we better change the second part to be more in line with the first part. Okay?

Seth Thompson: Right. That obviously has to be it's own ordinance and go through the process.

Vice Mayor Booros: Absolutely. Absolutely. So I make a motion that we vote on this tonight.

Councilman West: I'll second that.

Mayor Jones: Any discussion? One piece of discussion I would have is that not only this item, but one of the items that Mr. Dailey brought up; I hear a common theme of needing to look into our Codes and the like to see how they are worded; to see where ultimately responsibility falls after a Commission hears, or after a Board hears a case. In this case, I know that the spirit of the idea was to assist the procedure, which I applaud and I think it's a great idea. What I want to make sure is that the Town Council understands that Counsel, who is responsible for keeping us in the right direction, defending us against a law case, or inquiry, is making a certain recommendation. So right now, all we have on the table is a motion that we vote on this, this evening. Not how we vote on it, but that we do vote on it this evening. Do you have anything else that you'd like to add?

Vice Mayor Booros: I would like to amend my motion, that we vote on the second reading of this ordinance to pass this ordinance, to amend Chapter 220 of the Town Code relating to permitted principal uses and special permitted uses.

Councilman West: I'll redo my second to reflect that.

Mayor Jones: Any other discussion? You each received a copy of Mr. Thompson's email relating to this procedure.

Seth Thompson: The one thing I would add from a legal standpoint, if the Council

Members could give their basis for whichever way they vote, it would be important, just in the event that a Court's reviewing it. The Court needs to understand why, if it's approved or if it's disapproved, why that was.

Vice Mayor Booros: I don't have a problem with that, at all.

Mayor Jones: I'd also like, before we call the vote, to recommend that no matter how the vote goes this evening, that perhaps it would be a very wise idea to ask to have some of the permitted uses, special permitted uses, looked at and reviewed, as an entirety, rather than just piecemeal. You want a roll call vote then?

Seth Thompson: I think that's best.

Mayor Jones: Let's start at my left:

Vice Mayor Booros

Yes and the reason for it is I think that we're putting an undue burden on those people who want to open a restaurant in the Town Center, considering we have four other restaurants in the Town Center; so if you're going to allow them, you're going to allow them and to put anyone through what I know some of these people have gone through, from showing up at Planning and Zoning Committee meetings, finding out that all the information isn't available and come back in a month. I've watched it myself. In this particular case, I've looked at the list. We have four other restaurants in the Town Center. There's no reason why another restaurant shouldn't be an allowable use in the Town Center. That's why I'm voting yes. I vote yes for the same reasons.

Councilman West

Councilwoman Patterson

I vote yes for the same reason. There's four other restaurants in Town and it's an allowable use in Town.

Councilman Coté

While I agree with Vice Mayor Booros and Councilman West and Councilwoman Patterson, I'm going to vote No, based on Counsel's advice of following the stricter interpretation of the Code.

Councilwoman Parker-Selby

I'm going to vote Yes, because seeing the progress that Milton has made since I've been on the Council, I think it's only fair that we allow the freedom for other businesses and what have you, restaurants, to come to Milton, make our Town like a little D.C., where you sit out on the street and have a nice little place to come. So, yes.

Councilman Collier

I am going to vote Yes and my vote is based on the fact that if you read the Zoning Ordinances regarding the placement of fast food restaurants, there's no place in the downtown that qualifies. It requires 15,000 square feet of space, 100' of frontage and therefore I think it's a real stretch of

Mayor Jones

the imagination for the golden arches or anything else to appear in our downtown. I am going to vote Yes. I sat on Economic Development Committee for years. The idea of process and the choking process to get businesses going in Town has been literally under the radar for years and I think that this is a move, particularly in an isolated case of restaurants, for which we are well established of having other restaurants in these areas that this is indeed a good idea and I think this will send a very positive message, particularly to the people who are looking to develop in our downtown at this time.

Mayor Jones: The motion is carried.

c. Installation of Streetlights in Preserve on the Broadkill – Phase II

Mayor Jones: What can you tell us?

Seth Thompson: I reached out to the developer based on our last “regular” Council Meeting when we discussed this. I sent a letter over a few weeks ago. I haven't received any additional response, but I informed the developer that Certificates of Occupancy under our Code would seemingly be problematic on the lots where these lots are supposed to go and made the request that he install those lights. Again, I haven't received any response.

Mayor Jones: Two pieces, Mr. Davis, when I brought the Certificate of Occupancy up to Mr. Abbott, he indicated that perhaps that lighting issue, or the utility issue, was not on the punch list or checklist that Mr. Trotta looks at before Certificates of Occupancy are granted and he indicated that you would be adding that piece. Have you added that piece to a checklist so that this does not happen again?

Robin Davis: I wasn't aware of that conversation and did not have a conversation with the former Town Manager about doing that. The only thing I see about streetlights is these streetlights, if you look, are not on a particular lot, so holding up a Certificates of Occupancy for a lot, since that utility is technically not on that lot, that would be up to the Solicitor whether that pertains to this case to be able to hold up because a utility has not been installed.

Mayor Jones: Well and in that case, you're looking at the developments that each lot does not have a streetlight per house, Cannery Village, Heritage Creek, Wagamon's West Shores, so what is the intention of needing to review the utility, before the Certificates of Occupancy is granted?

Seth Thompson: And that's a good question. I didn't draft the Ordinance that that's under. I certainly understand Mr. Davis' point. The way that that section of the Code reads, it seems to focus on the compliance of that particular lot. To read it more broadly, the developer's would have to put in all of the infrastructure before they got one Certificate of Occupancy, which I think logistically would be very difficult for them if not financially very difficult. As far as, again, I did not draft the Ordinance, but reading it, it seems to focus on that particular lot.

Mayor Jones: So there is nothing that states that that developer needs to put in so many

lights, once the housing gets started? It's only upon completion. Is that correct?

Robin Davis: Correct, to get the streets dedicated to the Town. Yes.

Mayor Jones: And Preserve on the Broadkill right now, the issue at hand is public safety.

Robin Davis: That's what it has been addressed as, I think, yes.

Mayor Jones: And Mr. Thompson, this will require discussion and a vote by Council. Is there something that we will need to wait until November to discuss further?

Seth Thompson: It's really at the pleasure of Council. I know previously the Council discussed whether it was going to be a in position and I didn't have those conversations directly with the utility company; but whether it was going to do something, or make some offer to have the problem corrected immediately; but that's ultimately up to Council.

Mayor Jones: You had something on your report where you spoke to someone at Delmarva.

Robin Davis: Yes, I spoke with Mary, I think her name was, without looking, from Delmarva Power. Delmarva Power doesn't really care who submits the application; if it's the Town or if it's the developer. They will follow through with the application, once the application comes in, they will formalize an agreement that has to be signed and then they will go ahead and put it a work order for it to go ahead and have these lights installed.

Mayor Jones: And there are several things to be considered. Again, these roads are not dedicated to the Town of Milton. We would be setting a precedent by putting in lighting; not only the cost of the installation, but the monthly cost of the lighting. There are only two homes on this street, at this time. It does not mean there is not a public safety issue. It is black as pitch on that street. There is no question. There's also a traffic circle on that street, that you come on and then boom, you're in the middle of the circle. But there are far reaching consequences to making the decision to pay for lighting, without dedicated streets. Still a public safety issue, is the bottom line. So is there discussion among the Council? Otherwise I will allow Mr. Dailey to make a point-of-order.

Vice Mayor Booros: Madame Mayor, I just want to say one thing. It is not either of the homeowner's on the street that have asked for the lighting, either.

Mayor Jones: It is not.

Vice Mayor Booros: They both moved into the neighborhood knowing there were no streetlights in place and neither one of them have made a request that the Town step in and get streetlights and I do not believe that Mr. Reed would not answer our call for streetlights of a public safety issue at some point; unless the letter didn't go to Joe Reed.

Seth Thompson: It didn't. It went to Mr. Thompson.

Vice Mayor Booros: That's okay. That's probably okay. I was just hoping the other name wasn't going to come up.

Councilman Collier: Well, it would appear to me looking forward, that perhaps we need to readdress some of the things, as far as what infrastructure should be in place in areas such as this, before we get to the point of issuing even building permits. I'm sure we have to have water lines, we have to wastewater lines, they have to have electrical for the supply to the home, so streetlights is just another thing and if we have to rewrite our sub-division ordinances to require that streetlighting be in place and that the cost be borne by the developer, then that's what we need to do looking forward.

Councilman Coté: I believe the Ordinance already says that the cost of streetlighting shall be borne by the developer.

Vice Mayor Booros: But it's the time that it needs installed, that's the issue.

Councilman Collier: That's the issue, the installation time, so we need to look forward and revise our sub-division ordinances to include that, as well.

Mayor Jones: Before I am prepared to vote on this, I would like to make the recommendation that Mr. Thompson send at least another letter and don't you attorneys talk between yourselves? I mean, is it as difficult as all this?

Seth Thompson: I spoke directly with Blake Thompson. I shouldn't say spoke with him, I emailed him a copy of the letter and mailed it to their office, so I will certainly follow up and if the Council wants me to draft an amendment to the sub-division ordinance to put some sort of time frames so that we can avoid these kinds of situations in the future...

Mayor Jones: I think it's been stated by several, that the sub-division ordinance needs a great deal of review from top to bottom, but this is definitely a place where it's a good starting point. Mr. Dailey, did you still have something you'd like to say? Would you make that brief and make it at the microphone?

Jeff Dailey: Yes, just two points. I believe that Planning and Zoning has the right to request X number of streetlights, per development, so that's looking backwards. They may have missed that opportunity, but we also have to remember our history. We did have a former Mayor who approved paying for lighting in one of our Homeowner's Association neighborhoods, well before the Town took over the streets. Those lights were paid for under a Health and Safety issue for many years.

Vice Mayor Booros: Wasn't that when the developer went bankrupt?

Jeff Dailey: No, no, no. This was year's ago in the neighborhood that you're thinking of.

Vice Mayor Booros: I don't know about that.

Seth Thompson: And just to follow up on that, I want to make sure I'm clear on what I should be doing. It's really a timing issue, is my understanding, because there were streetlights on the approved plans. The question is when they need to go in. Okay.

Mayor Jones: I know that we will be hearing from the citizen who wrote us, because there had been an attempt to try to correct this by the time change, this fall. I don't see that as taking place. So we would like to put this on next month's agenda, November agenda, please.

#### 15. Executive Session

Mayor Jones: Now I will need a motion to go into Executive Session.

Councilman Collier: So moved.

Councilwoman Patterson: Second.

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

- a. Personnel matter in which the name, competency and abilities of an individual employee are discussed.
- b. Preliminary Land Acquisition.
- c. Personnel matters in which the names and abilities of individual employees are discussed in relation to performance evaluations.
- d. Discussion of the contact of documents, excluded from the definition of 'public record' in 29 Del C. § 10002, including records with trade secrets, confidential/ privileged commercial or financial information, or exemption from public disclosure by common law.

Mayor Jones: Now I will need a motion to come out of Executive Session.

Councilman West: Madame Mayor, I make a motion to come out of Executive Session.

Councilwoman Parker-Selby: Second.

Mayor Jones: All those in favor say aye. Opposed. Motion carried. May we proceed to 16 and do the vote?

Seth Thompson: Yes.

16. Discussion and possible vote on Executive Session items

Mayor Jones: Okay, we're going to proceed to 16 and make the vote on the issues of Executive Session. On Item a:

Councilwoman Patterson: I make a motion to vote to increase the base salary of the employee we discussed.

Councilman West: I'll second that.

Mayor Jones: Any discussion? All those in favor say aye. Opposed. Motion carried. On the issue of b:

Councilman Collier: I'd like to move to authorize Vice Mayor Booros to enter into negotiation on property discussed in Executive Session, contingent upon final vote of Council.

Councilman West: I second that.

Mayor Jones: Any discussion? All those in favor say aye. Opposed. Motion carried. c. was not part, but d:

Vice Mayor Booros: I'd like to make a motion that we approve interviews for the engineering company's discussed in Executive Session.

Councilwoman Parker-Selby: Second.

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

Seth Thompson: That takes care of 14, a, as well.

Mayor Jones: 14, a as well.

13. New Business – discussion and possible vote

a. Engineering Proposals  
See above

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

Seth Thompson: Mayor and Council, this is an item that was placed on the agenda. This is the first time it's on, but the way it currently works under your Code, for somebody to have a home occupation, they need to get a special permit; now we've kind of been talking about those earlier this evening, but there's been some discussion and Mr. Davis filed a memo for the Council in making that an automatically permitted secondary use. That in other words, if somebody were to open up a home occupation within their home, that that would be a permitted secondary use under the Residential Code and I believe it actually appears as a special permitted use in all of your Districts, so all three Residential, your Town Center, as well as your Marine District, procedurally and we've talked about that a little bit more today. If Council wants to go forward in discussing this and potentially amending the Code in that regard, you would want to refer to Planning and Zoning and schedule a Public Hearing.

Councilwoman Parker-Selby: I'm on that list and the type of business I have, you're talking about business, right? I don't do a thing here in Milton. When I've had contracts,

I go out. It's an educational speaking, presentations, things like that. So how would that affect what I do?

Vice Mayor Booros: Councilwoman, how much did you pay for your State License, because that's how your name appeared on this list?

Councilwoman Parker-Selby: \$75.

Vice Mayor Booros: You paid the State for a license to conduct a business at that residence?

Councilwoman Parker-Selby: Yes, but I don't do any business that I do, I don't do it... Not like someone else I saw here has a gun shop or something.

Vice Mayor Booros: Yes, then why did you pay the State for a license? I understand that, but why would you have paid the State to get a license to conduct that business and not the Town?

Councilwoman Parker-Selby: I didn't know the Town wanted...

Vice Mayor Booros: Right, but I mean you're not conducting the business there, but the State still required you to have a license, because that was your address.

Councilwoman Parker-Selby: Right.

Vice Mayor Booros: That is just a question.

Councilwoman Parker-Selby: Until the State... because you cannot go out and get aid, to do presentations or educational consultation if you don't have a License, to legally do it. It's according... now I've got this from people who retired before me and they all got the same thing; different Towns in Sussex County and Wilmington and around. It's not new for educators who retire to become consultants.

Vice Mayor Booros: The one thing about this, Mr. Thompson, was we turned down Mr. Garchinsky for the gun shop...

Councilwoman Parker-Selby: Now that to me is different.

Vice Mayor Booros: Well, he was going to do an Internet gun business out of his house, based on the Internet was having deliveries shipped back and forth, but the bottom line here is, their covenants in the neighborhood did not allow the business, so Planning and Zoning turned him down, as did we, because of the covenants. So to issue a blanket home businesses are okay, when the covenants don't allow it, is an issue.

Seth Thompson: Well I think it's important to know your... This would amend your Zoning Code, so you know, again, this covers everywhere in Town. People are going to be responsible to comply with their own restrictive covenants...

Vice Mayor Booros: We tend to not break covenants by issuing licenses to people. That's what Mr. Garchinsky was told in that meeting. If we go issuing licenses to everybody in Town after turning Mr. Garchinsky down, we may have a problem.

Seth Thompson: I don't think that was exactly why Planning and Zoning turned that down. Number one it was a Conditional Use. It wasn't confined to a home occupation, so it wasn't the 25% of the house. He was going to be storing items there, if I recall correctly.

Vice Mayor Booros: In the garage, or something.

Seth Thompson: So he didn't really fit within the definition of our home occupation in our Code, so that's why...

Vice Mayor Booros: He wasn't going to be performing retail out of there; it was just him as his only employee, an Internet gun business, storing some guns in his house.

Seth Thompson: Right, I understand, but I think the concern and again, I'm operating off of memory, but I think Planning and Zoning was concerned... they didn't base it solely

on their covenants, but rather...

Vice Mayor Booros: You need to read the minutes. We're not in the business of breaking covenants, so we're not giving you the license. At which point he said, there are eight other people with licenses in my neighborhood. One of which we had issued a license to, the other seven we had not. I think that we're asking for trouble.

Seth Thompson: Okay. This is your Zoning Code. Again, it applies to all of the Town. You're not trying to override...

Vice Mayor Booros: I understand. No, I'm also looking at the lady that sells stuff on line from the U.K. We put her through the ringer over the fact that she has the UPS driving up to her door every day and blocking Chestnut Street. There were a lot of reasons why those individual businesses... Every one of these businesses is different. To determine what they're actually doing, is going to be left up to one person to issue that license, right? One person's going to have the authority to issue a license to anyone that's classified as a home business, no matter what the neighbors say.

Seth Thompson: Correct. They would have to meet the qualifications that are listed in the Code.

Vice Mayor Booros: One person has that authority.

Seth Thompson: That's right. The way this is worded, I think arguably if I were to live in the Town of Milton and I were to go home and do research, based on our issues that we discussed here tonight, I would thereby be using my residence as a secondary purpose of a home occupation.

Vice Mayor Booros: So you have a travel agent that invites 30 people to his house on a Friday evening to give a presentation about a cruise. He's operating a home business in his house. He's got 30 people coming to the house to see the presentation, trying to get them to sign up to go on a cruise. Are you going to issue him a license for that in Wagon's West Shores? Because that's what he's doing.

Seth Thompson: Okay.

Vice Mayor Booros: You don't know the facts of what he's doing and unless that man is brought in to explain what it is he's doing, and the neighbors have an opportunity and the neighbors have told me about the guy that's running the travel agency out of his house, unless those neighbors have an opportunity to come voice their opinion in public, I've got a problem of just a blanket with the number of people that are on here and I have another problem with the fact that if we're trying to take it off the heels of Planning and Zoning, for not having to go through this, this list has been available since last April or May. The fact that we haven't started putting it through Planning and Zoning is not my issue either. They've had several months now, they could have been looking at some of these.

Seth Thompson: Again, I would look at the definition of home occupation, because I think if somebody's having that many people come to the residence, for instance, it says...

Vice Mayor Booros: How would you know it?

Seth Thompson: Well the Town has a Code Enforcement Officer that's designed to \_\_\_\_ into these things...

Vice Mayor Booros: And he's the one that's going to issue these licenses, right?

Seth Thompson: If they're not in compliance with the requirements of the home occupation, then they're breaking the Zoning Code.

Vice Mayor Booros: Mr. Thompson, these 90 people on this list without Town licenses

were probably on this list last year, the year before, the year before. Some of these people have been in business awhile. They get State licenses. They do not pay for Town licenses. We haven't caught them up to this point, we've known about this since...

Councilwoman Parker-Selby: Let me also state that the type of business I have is consulting and I don't do a thing here in Milton. I have not used that consulting license for the last three years, so I haven't done anything with it, but the State says if somebody happened to call me from Wilmington and I want you to come up and present something and give me money, then I have to have this particular license.

Vice Mayor Booros: You don't understand. You're not in the Historic District and you're not in a neighborhood with covenants, there's a whole bunch of different issues on every single one of these.

Councilwoman Parker-Selby: Right.

Vice Mayor Booros: That's what I'm saying. To make a blanket statement, after turning that guy down because his covenants don't permit it, so you would say we would go ahead and give him a license in Cannery Village or in Wagamon's West Shores, if he was a permitted use for a home, family business, even though their covenants say they shouldn't have home businesses or businesses in their homes.

Seth Thompson: The Town doesn't enforce restrictive covenants.

Vice Mayor Booros: No, we don't break them either and I think that's what Planning and Zoning said when they didn't give Mr. Garchinsky his license.

Seth Thompson: But I think you're putting the Town in a position of having to look at everyone's restrictive covenants for everything we ever do. That just doesn't...

Vice Mayor Booros: They did. I was in that meeting and they did.

Seth Thompson: Well, I'll respectfully disagree. I think they looked at the restrictive covenants as a sign of what was appropriate in that neighborhood.

Councilwoman Parker-Selby: I wouldn't want guns in any neighborhood.

Vice Mayor Booros: I'll respectfully disagree.

Mayor Jones: Okay, but that particular applicant is on this list.

Vice Mayor Booros: Yes. Isn't that funny? He hasn't been taken off.

Mayor Jones: Now retailer to me, retail sales is something entirely different and I see a couple of people here who have themselves listed as retailers.

Vice Mayor Booros: I'd like to ask if they've been asked to go before Planning and Zoning, if they're not home businesses and they're on this list.

Robin Davis: All the company's or individuals that are identified, are doing business out of the home. This was brought up, as the memo stated, it's one of the disparities that I've made an example of. You have an individual that wants to do piano lessons and tutor one or two students a week. The Town is requiring that individual to go through a special permitted use process, which requires her to have a Public Hearing, go to Planning and Zoning, notification to the neighbors and the newspaper. An individual that wants to do a day care, a homeowner out of their home, is going through the same process. It seems to be that to be a little bit more business friendly to some of these home based businesses that don't have an impact on the residential area, that maybe we can spread them out. Maybe not give a blanket, just for a home occupation, but I think there's a broad spectrum of businesses that we're lumping them in home occupations which...

Vice Mayor Booros: And my question to you Mr. Davis was, on this list of people have any of these 90 people been asked to go before Planning and Zoning to get a license, or been fined for not having a license?

Robin Davis: No they haven't.

Vice Mayor Booros: Because they're not all home based businesses that I can look down this list of 90 people.

Robin Davis: The list that you have, there are 70 some on that list right now.

Vice Mayor Booros: Okay. I'm not seeing that they're all home based businesses, when it says retailer for food. I had a neighbor across the street, who was the Tasty Cake woman who pulled that huge truck up, kept it parked in front of her house, boxes of Tasty Cakes up in front of her house, right in the Historic District.

Robin Davis: But if they're doing it out of their home, that's what I'm saying. All these are the ones that are doing it out of their home.

Vice Mayor Booros: She was doing it out of her home.

Robin Davis: That's what I'm saying. These are homes. They're not commercial... I understand that they might be classified by the State...

Vice Mayor Booros: So in the Historic District, you're going to issue the lady a permit, as a home based business and she's running a Tasty Cake operation out of the house across the street from me; with the big truck, the deliveries, the boxes, the cases everywhere. You cannot lump all of these together. You can't do it.

Robin Davis: By what you just stated, she would not be classified as a home occupation, because she is storing commodities there, so she would have to go through the Conditional Use process.

Vice Mayor Booros: And this guy on this list that's a retailer isn't storing any commodities in his house?

Robin Davis: I don't know that. We would find that out when we received the application, as we would anyway. Once somebody comes in, the example that I used was the lady that wanted to do piano lessons.

Vice Mayor Booros: I read them. I read the piano lessons.

Robin Davis: That's how I found out, so I made a call to her and I read her the definition and went through the process, the steps and asked her if she was the only one doing the tutoring. She said, yes. The next step would have been okay, are you using more than 25% of your dwelling unit as the business? She said, no. So with all the questions that came up, she answered them, and she fit the classification of a home occupation. But then I explained to her, I said well, that's a special permitted use. You're going to have to have Planning and Zoning approval. She said, what's that going to take and I said probably a couple of months. You're going to have to put notification in the newspaper, you'll have to fill out an application which is \$100 application fee, the newspaper notification is about \$100. She's going to have to send certified letters to the residents within 200' of her property, at \$6.50 apiece, roughly somewhere giving a shot of \$200. We have our Town Solicitor at the Planning and Zoning meeting. They will be paying for that. If an engineer is needed to review the plans, that's more. She's probably going to have about \$800, at a minimum, to just do piano lessons in her home.

Councilwoman Parker-Selby: And if she's smart, she'll say forget the piano lessons.

Robin Davis: That's what she said. She said, I don't know if I could afford to do that. I'm not saying that that daycare business is not going to cause more trouble than the piano lessons. I understand that.

Councilwoman Parker-Selby: What other towns have this extra charge on the home businesses? Does anybody know?

Seth Thompson: I think it's important to think that the cost is related to the special

permit, so it just depends as what you define as being an automatically permitted use vs. a specially permitted use.

Councilwoman Parker-Selby: But other towns do have these kinds of things? I'm going to check that out.

Vice Mayor Booros: But you have to get a business license in the Town. Real Estate Agents that stick their sign out front were made to get a license in this Town to sell real estate.

Councilwoman Parker-Selby: I can see that, but what I do has nothing to do with the town, period.

Vice Mayor Booros: Then why did you list the Town address for the State license?

Councilwoman Parker-Selby: I leave and go places.

Vice Mayor Booros: I understand that, but it also has nothing to do with the State license either, what you do in this Town. What was the deal with that?

Councilman Coté: Maybe it does. She might conduct business in the State of Delaware, but not in the Town of Milton.

Councilwoman Parker-Selby: Nobody wants me in Milton.

Vice Mayor Booros: We all want you in Milton. I'm just looking at this list of contractors and saying no way you can do a blanket if these are all home based businesses and Robin, unfortunately, you get to tell them yes. Not a chance. Not my vote.

Robin Davis: I understand. I understand.

Vice Mayor Booros: Let me tell you, because these businesses should have been having license for the last 3 or 4 years and they didn't. Okay? And that's revenue that this Town has lost and this Town needs the revenue and there's no excuse not to have had the revenue. It shouldn't have taken Mr. Garchinsky to give us this list back in April, to tell us who had businesses in this Town and let me tell you, some of these people are contractors who have trucks, with all their stuff stored on them, that's the phone they're using and their business and they go out, but they're bringing those contractor trucks back into their neighborhoods.

Seth Thompson: I think the way to address that would be if you look at what qualifies in terms of a home occupation, for instance, the use is not supposed to result or cause vehicular traffic that would create a nuisance to abutting properties or be detrimental to the character of the neighborhood.

Vice Mayor Booros: So a big commercial vehicle with all this plumbing equipment and ladders and stuff, parked in the middle of the Historic District, on a one-way street because he's running his business out of his house; but he's not actually doing plumbing in the Town, he's going to Bethany to do it...

Seth Thompson: It might be getting confusing between when you need a business license and what the zoning is, so again, this is a zoning issue. If anything, by having people go through the special permit process, it's basically disincentivising them to be forthcoming about whether or not they have a room in their house that they use to write up their reports.

Vice Mayor Booros: Seth, there were 125 people on the original list. Not a one of them was forthcoming about getting a Town business license. Not a one of them. Okay? Some of them were names of people we knew had businesses in this Town and none of them did. I just think a blanket thing on this is ridiculous.

Seth Thompson: My suggestion would be if you think something isn't appropriate, that something needs to stay in that special use process, that special permit process, then the

fix legislatively would be to draft the home occupations requirements if people that only see one person at a time, or don't have anybody come to their house...

Vice Mayor Booros: And be able to enforce it and that's the problem, once again, Seth.

Mayor Jones: Yes, but you'll never be able to capture all of that. Just trying to put that on paper, you'll never be able to capture all the exceptions. My issue with this list, is on page 2. Someone we have already denied as a home business and I was at that meeting and it was based on the fact that to grant this particular person a home based business was in direct violation of the covenants of the sub-division. Now this person is now on this list for approval of a home business.

Councilman Collier: This misrepresents the State license names. He has a State license, even though he doesn't have a local one.

Mayor Jones: I understand that.

Vice Mayor Booros: But it's a gun shop.

Councilman Collier: Because we wouldn't grant it.

Mayor Jones: I understand that.

Vice Mayor Booros: He was never removed from the list.

Robin Davis: And the issue is some of these, and I'm not saying the majority of these, these could also; this individual that you were just talking about, could be storing those items on an out-of-town site and using this address only to receive mail, so the business is actually, or the storing of the items, were outside of town, as some of these retailers might be. I'm just using...

Vice Mayor Booros: So he's still running the gun store out of his house, is what he's doing.

Mayor Jones: Regardless of where he's getting mail, or storing the goods, would this be considered a home business occupation? This right here.

Robin Davis: He went through a Conditional Use process, just like the U.K. goods individuals went through, because they wanted to store the items at their home, which does not allow it under a home occupation. That's one of the requirements to fall under a home occupation or not. That's why it went Conditional Use.

Mayor Jones: Right and it was denied.

Robin Davis: As a Conditional Use, correct.

Mayor Jones: And it was denied, partially, because it would have put Milton in a position to ignore the covenants of his neighborhood and grant him the Conditional Use. To have granted him the Conditional Use would have gone in direct violation of the covenants of his neighborhood.

Robin Davis: The covenants of that neighborhood does say that they cannot do any trade or businesses in that development. Yes it does say that.

Mayor Jones: Okay, so how can the Town of Milton go on record as endorsing that and go against the covenants? How are you going to justify that?

Seth Thompson: I think Planning and Zoning denied that Conditional Use based on the fact that they viewed those covenants as inditia of the nature of that neighborhood and that it wasn't appropriate in that neighborhood. It could be that restrictive covenants are ignored, just entirely by the Homeowner's Association and the entire neighborhood has changed character to the point where everybody has an in-home business, so even if you go to the Recorder of Deeds and a Declaration says residential uses only; the whole character of the neighborhood could be that everybody has businesses.

Mayor Jones: Could be. You're still asking Milton to make a judgment based on

something that's morphed into something that shouldn't be.

Seth Thompson: Part of the problem is that those restrictive covenants are contractual in nature, but when I was speaking with the Vice Mayor earlier, in terms of I don't think Milton wants to be in a position where they have to research everybody's land records, as far as what they can and can't use. When you guys making zoning decisions, it covers the entire Town. If people want to contract themselves through restrictive covenants to have a six foot fence, instead of a four foot fence, ultimately that's up to you. I think following your line of rationale, or at least the discussion, we would then somehow need to change our Zoning Code to match their restrictive covenants on fence heights and everything else and then, of course, your Zoning Code isn't going to be uniform throughout the Town. Really zoning is a legislative decision and that really represents the minimum as far as what that property can be used as, for legal compliance, but again, if people want to do something differently based on their covenants, I view that as a separate issue and Vice Mayor Booros it might seem like I'm parsing words very...

Vice Mayor Booros: I'm used to it, Seth.

Seth Thompson: But again, if they look at those restrictive covenants as being an indicator of what that neighborhood and I think at the meeting there was additional testimony, but to just say the restrictive covenants don't allow it, therefore we're not going to do this...

Vice Mayor Booros: But they allowed the opportunity for the residents of the man who is running that little travel agency, who's going to tell you, oh no I don't have anyone come to my house. It allows the residents to stand up at a meeting you, oh yes he does. That's why I'm saying a blanket thing about what you consider a home business, I've got a problem with, based on some of the names on this list that I know are storing crap in their house and they're having large groups of people in and they have large delivery trucks; but if this is the list you presented us with tonight and you want to call all of these home businesses, then you're not the one that should be saying you get a license, because they're not all home businesses.

Robin Davis: They're just businesses out of their home. That's what I...

Vice Mayor Booros: But they don't meet the definition of a home business according to our Code.

Robin Davis: And again, I don't know that, because I have not talked to every one of those individuals yet. That's the thing. I don't know. I just see...

Vice Mayor Booros: I think I'd do a little bit more homework before I brought this back before Council, or Planning and Zoning, or anyone else. I'd talk to them. I'd send them a letter. Ask them why they don't have a license.

Robin Davis: Well that was the process that we were going to, as I stated in the Memo. The Town Manager was in the process of doing that, but then it was we're going to make these 78 businesses go through a Planning and Zoning process, at the least. If not, a Conditional Use process which has Council approval too. As it states, it was brought to this Council to get some kind of guidance. Do we want to even look at some of this? It wasn't more of okay let's just put them all in one lump sum and say let's do it for all of them.

Vice Mayor Booros: Yes, but that's what this Resolution says, Robin, that's sitting in front of me. Let's call it one lump sum and let's change the Ordinance to say it's a home-based business.

Seth Thompson: No, the Resolution is just scheduling the Public Hearing and then it

needs to be referred to Planning and Zoning. If you want to draw the lines differently, obviously that's ultimately Council's decision. I think what you have currently, if you view the covenants as controlling, then you've eliminated that possibility for people that don't have restrictive covenants and ultimately if that's what Council wants to do, that's fine.

Vice Mayor Booros: There are people who don't have restrictive covenants. The only problem I have is like with the U.K. product stuff, they wanted to know if anyone was coming in, if anyone was coming out, how big is the delivery truck that's going to be bringing the stuff and how much stuff are you storing at your house, because they do store product at their house and they do ship and receive out of their house.

Robin Davis: Correct. Correct.

Vice Mayor Booros: There are retailers listed on this list. It says retail, retail, retail. Just because their address is at their home, doesn't mean they're not selling Tasty Cakes.

Robin Davis: Yes and then that goes back into where it kicks in the Conditional Use requirement, instead of the home occupation, because they're storing commodities at that site.

Vice Mayor Booros: Okay, so the home occupation I read it. It reads really nice, so what's wrong with it?

Seth Thompson: You have to go through the special permit process, that if somebody has an office in their house, where some of the examples are engineers or doctors, somebody drawing up plans or even if you're typing up medical reports, if you're a doctor; you seemingly then fall within the scope of a home occupation and you have to go through the special permit process.

Vice Mayor Booros: Well if there was a doctor's office next door to me, I would want him to, quite honestly.

Robin Davis: Again, that's where the...

Vice Mayor Booros: Because your doctor's office could end up being a methadone clinic. Let's get serious. I don't want it next door to me.

Robin Davis: That's when the Council can make that determination on what... I don't want that yes or no just to come to me.

Vice Mayor Booros: But that's considered a home-based business.

Robin Davis: But maybe we could do something with the definition or reclassify some of these. Again, I go to the piano lessons.

Vice Mayor Booros: Maybe she should be able to teach lessons. I don't have a problem with it.

Councilwoman Patterson: A lot of people that I know, use her, but for her to come out... it's going to be a hardship for \$800.

Vice Mayor Booros: But that's one out of 90 or 70.

Councilwoman Patterson: But I do think that there are some uses, like a doctor's office, absolutely. But if you're sitting there, for example, transcriptionist and you're just typing up doctor's notes at night; that's completely different than a methadone clinic.

Vice Mayor Booros: I agree 100%. But all I'm saying is, this list of people, if this is the list that you think are home-based businesses that ought to be exempt from having to go through it...

Robin Davis: No, no, no. That's not what I was stating.

Councilwoman Patterson: This is the list from the State.

Vice Mayor Booros: I know the list from the State, because I'm the one that gave it to

him.

Councilwoman Patterson: Yes, but if it's like a contractor just working, I don't...

Vice Mayor Booros: They need a license. Do I think that Estelda Parker-Selby needs to go before Planning and Zoning? No. I don't.

Robin Davis: But currently she's going to have to. That's what I'm trying to say.

Vice Mayor Booros: I understand that part. I just don't want to exempt...

Councilwoman Parker-Selby: I don't think I should have to. That's absurd.

Vice Mayor Booros: No, no, I get it Robin. What I'm saying is I just...

Councilwoman Parker-Selby: That shouldn't be necessary.

Vice Mayor Booros: I don't want it all exempted.

Robin Davis: Correct and I understand. I understand.

Vice Mayor Booros: I don't want you to be the one to decide who gets exempted.

Robin Davis: And neither do I. Yes. It's just, I wanted to bring it to Council's attention that all those are going to get lumped into one category and we're going to have a massive influx in the Planning and Zoning. Some of those need to go, yes. But there are some I don't feel need to go.

Vice Mayor Booros: I agree.

Robin Davis: But then I think the Council... I needed guidance, because if we send out these 77 or 78 letters, two weeks from now, we're going to get hopefully 78 letters back saying I want to get put on November's Planning and Zoning meeting and we're going to have a mess. So I understand these people need to pay for a business license.

Vice Mayor Booros: And I understand, Robin, I never would have sent all 77 out at a time, when I handed you this list back in April or May, I said you may want to start with one neighborhood at a time and do it incrementally as the summer goes by.

Robin Davis: And I would hear from them, as I have in the past, did so and so get the same letter I'm getting? Well, no they're not going to get theirs until January.

Vice Mayor Booros: Well they're about to.

Robin Davis: They're going to be mad. That's... Why are you picking on me first?

Councilwoman Parker-Selby: The other problem would be, if this has been an issue or something the Town has known about and people who have had the businesses have no idea about it, to send a letter like that is like what are they trying to do? I think we're trying to be a user-friendly Town and build the morale and so forth up. If we went with something like this, I think the public should probably be notified in the media or some kind of way that this could possibly be something coming down the pike, rather than just give a letter thrown in the mailbox and no one's ever heard of it before and all of a sudden, here we go.

Robin Davis: Hopefully, with this too being put on this agenda, this is now being brought out and that's what we didn't want to get this mass revolt from 78 businesses. It's not right that they have been doing without a business license, but do we make all these people go to Planning and Zoning?

Vice Mayor Booros: Why don't you ask the rest of the taxpayer's that are the ones that got their taxes raised year before last? This is revenue that the Town has missed for years.

Robin Davis: Yes. Correct. Yes.

Vice Mayor Booros: And to let them all... We're going to miss them this year, too.

They're not going to pay for a license this year. They'll come in January and get a license. We're going to miss this year's revenue too and we've known about it for six

months. That's what I have a problem with. We waited until this late in the year, this new fiscal year, to even try to collect this money from anybody.

Robin Davis: Yes.

Vice Mayor Booros: It's the bottom line.

Robin Davis: Yes.

Vice Mayor Booros: And somebody brought it to our attention as we were turning him down. That's the bigger part. Like I said, not all of them... I agree the piano lady shouldn't have to go through all that crap, but there are people on this list and somebody needs to look at this list long and hard, before you make an exemption to all home-based businesses.

Robin Davis: Yes. That's correct, because all of them do not fit in the same requirements that need to go through a Planning and Zoning process.

Vice Mayor Booros: They all fit under the definition of a home-based business, but not all of them should be exempted.

Robin Davis: That's currently. Yes. That is correct.

Vice Mayor Booros: That's all I'm saying.

Robin Davis: I agree with you 100%. I just needed to know where the Council wanted to go with this, because as it stands today, we can send letters to these people tomorrow requiring to at least a Planning and Zoning meeting and if nothing else, a Town Council meeting for approval, as it stands today.

Councilman Collier: Mr. Davis, would it serve you if a criteria for making the decision as to whether they were required to go before Planning and Zoning, a questionnaire, you said you ask questions of people? Do we need to draw those lines to facilitate you deciding, okay this guy goes in File A, Planning and Zoning and I would give you an example. There's someone on here who has a State license to operate a transportation service. They park their transportation vehicle in my neighborhood, so obviously because they park it in my neighborhood that makes them home-based. Does it not? By definition?

Robin Davis: Yes, by definition that's correct.

Councilman Collier: Alright, that's one instance. Now you have all these people that are listed as resident contractor and I think by ordinance, they're required if they do work within the town limits, they have to have a license. That would be the first question I ask them, do you do work here. If they park a vehicle with their logo in front of their house, now it's a home-based business. Is it not?

Robin Davis: Yes, if it fits the 25%.

Councilman Collier: So there is some criteria already in place and it's just a little bit of common sense and looking at, to determine who somebody folks are going to be and then other ones, you're going to have to ask the questions. I assume that if somebody's baking cakes and I would think if they're baking them out of their home, would be the first question, so if somebody picks up a cake at their home, now it's home-based. Maybe they just... The point was brought up, maybe the license just is registered to their mailing address and they operate an establishment outside of Town, but these are the questions, I think, need to be asked and it sounds to me like you've got your work cut out for you asking questions, to at least make that determination and I've already given you some parameters that I've asked and you've answered, that establish that it's a home-based operation. I would think, until we get to the really fine art of this, that you could get started on this list and that would certainly make Vice Mayor Booros happy; it might

make the Town treasury happy. I think this is going to require some more thought to develop a comprehensive set of rules or ordinances to make the determination, but there are some common sense things that you could do now and you've already illustrated by answering my questions. That being the case, I would say get started on the list until you get down to the finer points of the ones that you aren't sure of and while you're working on the ones you're not sure of, that would give the Council opportunity to mull this idea over and perhaps direct whatever body they want to direct to begin the work on the criteria for making these determinations, so that you have a policy and a guideline, instead of questions that you can ask. This is your tip as to okay, well these folks need to have my attention. It doesn't mean that they have to go through the process yet. You just have to give them your attention and answer a few basic questions and I think I gave you three or four of them right there.

Robin Davis: That's what I got from the two that I talked to, Mr. Palmer this evening, he was here. What are you going to do to me, right now? Do I have to shut my door tomorrow? The lady with the piano lessons. Right now, I'm required, by Code, to tell her she's got to fill out an application and go to Planning and Zoning. That's the requirement.

Councilman Collier: I looked at the lady's address and she may have a bigger problem.

Robin Davis: That's true.

Councilman Coté: I'm not sure her covenants will allow her to do that.

Robin Davis: Again, now we're back to that, again. But these people are going to be required, if I call them tomorrow and just start getting information on their business, they're going to say, what do I need to do? The current Code says you have to submit an application for Planning and Zoning. That's what I have to tell them.

Councilman Collier: Alright and I get that, but in the meantime, there are some of them, you should be able to... When I see here a business license for a barber shop on Walnut Street and I know there's a barber shop there and they have a State license, where's their Town license?

Robin Davis: He has a town license. He does.

Councilman Collier: Well then how did he make this list?

Robin Davis: He did not, as of a month ago.

Councilman Collier: It's been brought up to date. Okay, so then the list may have some holes in it, as well. I think that, again, like I say there needs to be some more thought. I don't believe this is something that's ready to go to Public Hearing as a blanket type thing. I think we need to, somebody needs to, I'm not going to pick or choose, I'll leave that to the other members up here, but at this time I think maybe the best thing we can do is to set this on the table until it can be given a little bit more attention. There seems to be... I see Mr. Thompson over here is "frantically" going through the Code. I did the same thing trying to figure out if there was anything that circumvented this process or anything else and I'm not finding it and it's not even real clear and this may be something that has to be considered on a zoning case by zoning case, because if you're in the R-1 District, there's a different set of rules that apply, then if you're in this District over here, which would be the Town Center, because we do have residents that are considered within Town Center.

Councilwoman Parker-Selby: I'd like to make a motion that we table this discussion until further research and information is given.

Vice Mayor Booros: I'll second that motion.

Robin Davis: If I may, Madame Mayor?

Mayor Jones: Yes, because I'm just about to open up for discussion, because I have some too, but you go first.

Robin Davis: I understand that, but what am I to tell...

Mayor Jones: Thank you, we can't just table something without a plan. You can't table something without giving it a direction. This will cycle through until infinity, if we do not give Mr. Davis a plan. If the recommendation is to table this, what is the action?

Vice Mayor Booros: The action is for Mr. Davis to give us a plan on how he intends to filter through this list.

Councilman Collier: Yes, because I think he can boil this down to a shorter list, for starters.

Vice Mayor Booros: I agree.

Councilman Collier: When people ask what you're up to, you just tell them I'm trying to determine whether I need to take you to this point and leave it at that.

Robin Davis: Then I'm not going to require them to go through a Planning and Zoning process as of that point?

Councilwoman Parker-Selby: I wouldn't.

Councilman Collier: At this time. But it looms.

Councilwoman Parker-Selby: At this time.

Robin Davis: Okay, that's fine. I will just make them aware, as I did the lady with the piano lessons and Mr. Palmer. I said, this is on the agenda for tonight, just hold on and I will give you more information, hopefully, on Tuesday. That's okay with me. I can make these phone calls and find out actually where these people fall. How many would, under the current rules, fall under home occupation; how many maybe fall under a Conditional Use...

Vice Mayor Booros: Are these license applications for the State available to review on line?

Robin Davis: I don't know about that. I think, probably the list is the only thing that's probably available. I don't know if they're actually license would be.

Vice Mayor Booros: To see what they actually do?

Councilman Collier: Mr. Davis, I would suggest you go take a look at some of these addresses, as well, because of the examples that I cited to you was the school bus parked in the neighborhood. Obviously, it must be home-based if they're parking it in the neighborhood, that's home-based, by your own admission.

Robin Davis: Correct.

Councilman Collier: As well as some of these contractors and stuff like that. Then you have at least some grounds to put them into consideration. There are probably some other examples on here where... okay I thought I saw on here where someone was a home health aide. Well I doubt that they do home health out of their home, but they have to have a State license for that. That is a requirement, so there is an example of one that may not need it. You have to not just only make phone calls, sometimes it takes a little looking around, because believe it or not, people will lie to you. Oh no, I don't run that in my home and the truck's parked right there and all the materials are in the backyard; that's the whole point.

Robin Davis: I understand.

Mayor Jones: Yes, one of these, I have to say listed as a contractor very close to where I live, that would be fine if he was getting in a single vehicle and leaving, but stores supplies in a huge box truck on the property and I think you probably know where I'm

talking about. It's a terrible eye sore. It's nothing but a supply truck for... that's a little different and my biggest question is, before we take a vote, is this individual is licensed by the State to conduct this work in Shipbuilder's Village. Has anybody gone to see, since Milton denied it, that this is not taking place at this location and isn't it a contradiction...

Vice Mayor Booros: He's not supposed to be, Madame Mayor.

Mayor Jones: Well he has a State license. It states here what he's doing.

Vice Mayor Booros: He had a State license before he came before us and he's located out on Route 16 at MH Designs. He's sharing space with them out on Route 16; that doesn't mean he's not doing it out of his house, but that's his current address. I don't know if he's changed the license address with the State, or not, but he's supposed to be operating out of MH Designs out on Route 16.

Mayor Jones: Is there any inspection process Mr. Davis for a Code Enforcer to look into a home-based business for it's either legitimacy or working under the guidelines of home occupation?

Robin Davis: There is some sort of broad that the town has the right, if we find that you're not doing under the terms, that we can suspend your license or ask for further clarification.

Mayor Jones: So with this motion, are you clear in what your duties will be in returning to Council to give us further advice?

Robin Davis: Yes, I think so. I think it's mostly to go through the list and basically categories these businesses, into different areas of the effect on the neighborhood.

Mayor Jones: Would you like us to place this on November's agenda or is that too soon. I would like to get a timeline, so that it's not dangling too long.

Robin Davis: I think we should keep it on and then any progress I can still pass along. That way it stays on and I can have the Code Enforcement Officer assist me in trying to knock these out as soon as possible. That way we can get something forward.

Mayor Jones: Okay so we have a motion and a second to table this and refer this back to Mr. Davis for more information to come back in November. Is there any other discussion? Hearing none, all those in favor say aye. Opposed. Motion carried.

d. Method of disposal for surplus equipment and inventory

Kristy Rogers: I was asked by Mr. Abbott to follow up with each department to develop a list of inventory that they could determine if it could be auctioned and I've provided three options with different contacts that I made during the past month to dispose of this excess inventory. Attached you will have each department's list, as well. The first option was I contacted Emmert Auctions out of Rehoboth. They like to make an on-site visit first, to view all of the items designated to be sold, to see if it's feasible to hold a crowd and what kind of revenue we could receive from the auction. They also require a fee from \$1,500 to \$2,000 to advertise on behalf of the Town and they also require a 10% buyer's premium on anything that someone decides to purchase. Option b is with Wilson Auction. Those auctions are held every Saturday morning. The items would have to be taken by the Town, to their site in Lincoln. At that point, we would leave them there and the auction would be conducted on that Saturday and we would then have to pick up what did not sell to dispose of using whatever policy we decide. The benefits to Wilson Auction is there's no buyer's premium. Whatever someone offers to pay, there's nothing additionally to that to be paid to the auctioneer. Option c, Ridgely Auction. They are out

of Camden. Depending on the item they sell varies on the percentage for their commission. It could range from 10% to 25%. Again, we have to take all the items to their location and then what is not sold, we need to pick back up for disposal.

Mayor Jones: Well thank you very much for following through with that. We have no date in mind yet, do we? Okay. Does anyone have any comments?

Councilwoman Parker-Selby: Is this all of the inventory?

Mayor Jones: That's all that's been turned in. Yes.

Councilwoman Parker-Selby: So we have to choose a date to have the auction. Is that what you want to do tonight?

Councilman Collier: I have a question. Regarding the vehicles in the police inventory. Now will these vehicles be sold as they sit now or will the equipment be stripped out and sold separately, or what? I'm curious.

Chief Phillips: Normally we strip everything out and sell it that way. Yes, Sir.

Councilman Collier: It didn't reflect it in your inventory list, so that's why I asked. I think that some of it would probably have more value as a separate piece, than rather attached to the car and vice versa.

Councilwoman Parker-Selby: Are these high mileage vehicles?

Chief Phillips: Fairly much, yes Ma'am.

Councilwoman Parker-Selby: So they won't bring a lot of money.

Mayor Jones: Is Council prepared to make a decision or a recommendation?

Councilman Collier: I would have thought it might have served us better to do on-site, than to have to haul it somewhere, but Emmert is a little on the high side with this stuff, although some advertisement would be required, I would imagine; but it's been my experience with most municipalities, usually they run their own ad and it's just a little small thing. They might run it several times. I don't know about auction services in Sussex County. I'm not real familiar with them. There are some more besides Ridgely's in Camden. Some small ones and not so small ones. I don't know if we should look further before we make a decision or not. I think that should be the pleasure of the entire Council, not just me. But I can certainly give Mrs. Rogers some more names to contact, if she'd like.

Councilman West: Madame Mayor, I feel we should get more names together, because it looks like Emmert's is going to make more money than we will.

Mayor Jones: I have to agree with you Councilman West. I would prefer to send this back for further consideration of options for auction methods. If anybody is in agreement and would like to make that motion, otherwise we're still opened for discussion.

Councilman West: I'll make that motion that we look into other options before we set someone to sell this equipment where we can get the most for our money.

Vice Mayor Booros: I'll second it.

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

e. Suggested new format for monthly police reports

Mayor Jones: I know that we have struggled making some numbers match up. What I've given you actually is a prototype of the police report that is used in Rehoboth Beach. You will notice that there is a great deal of information on this report, that would not apply to this Police Department and so taking that into account, I've put together a mock

up of what might be helpful. I did not want to make a decision on my own and request just a police report. I wanted it to be an agreement with what other Council may look for in their report. You'll notice it's pretty basic. It calls for the number of complaints and charges for the month; charges meaning arrests. The second table here, if you'll notice at the back of the stapled package I just gave you, is a monthly activity report. I cannot say and I have not asked the Chief, if Milton uses an activity report like this that is turned in every month to him, I'm going to assume. This is a breakdown of the hours worked by the officer, each day, how those hours are broken down into whether or not they're on vehicle patrol, foot patrol. We do have bikes here. It also is broken down as to arrests, warnings and I'm not certain that Milton does business checks, or residential checks; those are door pulls on businesses after hours to make sure that they are locked and secured. So that the activity report may need to be modified, but the information in Table 2 comes from that activity report. I just wanted you to make the link between the two. The criminal charges and the traffic charges, are again, back in January of 2012, when I brought up a recommendation for a proposed change to the police report, this is something that can be gathered through DelJIS, it's a simple report. According to the folks there at DelJIS it doesn't take very many minutes to produce it, put it together. It's available. It's nothing that we have to work hard at getting. I believe the word actually is Cognes Report. So the day that would be available to the Chief, to the department, gives you a small comparison on page 3 of the month's total, this year; the month's total, last year and I made it up this way. If you'll notice it has a November date on it and it actually would be reporting, in this case, September, instead of October. So I do feel like with a police report, we're always a month behind because of the date of our Town Meeting.

Councilman Collier: Is this template readily available?

Mayor Jones: It is.

Councilman Collier: So it's just a matter of providing the Chief with the template and his officer's doing the work on this back page, in order for him to fill in the blanks on the other pages. Is that how it works?

Mayor Jones: It is for Table 2. That is correct. The arrests, Table 1 and the tables from criminal charges and traffic charges; the description of the offenses will come up on the left hand side and it will tell you how many there were for that particular time frame, so that the report would be run from day one until the last day of the month and that's where you would receive that information. This would also give you an accounting of the personnel at any given time and submitted by the Chief of Police. What will happen is your charges in Table 1, will add up to the criminal and traffic charges.

Councilman Collier: Well from what I can see, it tells me everything I might want to know.

Mayor Jones: And if it doesn't then please add, because that's the purpose of having brought it to all of Council, rather than having made a decision or a request.

Councilman Collier: At any given time, we know what the staffing was, as far as how many of each particular rank or level we have on staff, during that month, because we have had that issue change from time to time here lately. I like the accounting of the officers time, because one of the biggest things that I feel as a councilman, is how come that car was sitting behind the station all day? I don't know if it was there all day or not, because I wasn't there watching it, but there may be a good reason and at least this might give me a better answer, instead of me going, I don't know, ask the Chief.

Mayor Jones: This also gives you on the activity report, at the far right, an accounting of mileage and it will give you, if you'll notice, that is particularly vehicle patrol hours. Those are not the hours that the vehicles are not in Town doing the scheduled work. The miles patrolled refers specifically to the mileage being recorded when the officer goes out for patrol, not when they leave their house that morning. That would be kind of cooking the books, if you would. You need to record that mileage when the car goes out on patrol for the day and then conclude that mileage when that car comes in before it goes home for the evening. Now, Chief, if we do not do residential door checks or commercial door checks, it's certainly something we would not ask; not that it's a bad idea, but if your group does not do that at this time, then we need to get some input from you on that.

Chief Phillips: Yes, Ma'am.

Mayor Jones: I know there's been a lot of discussion about the police report, is there anything anyone else would like to see put into this report that would be helpful.

Councilwoman Patterson: No, but I like the way it's laid out. It's thorough and it's the questions that the Council has been asking the Chief for since the time I've been up here.

Chief Phillips: Actually a couple of years ago we did one similar to this and then Council asked us to save trees and do what we did now, so that's why we switched to that. Other than that, we were good with doing it the way we were doing it.

Councilwoman Patterson: Good, so this will be nice, because I think this is what Council sometimes feels like they need.

Councilman Collier: It looks to me like you could save trees with this one, just two-side it Chief.

Mayor Jones: Two side what?

Councilwoman Parker-Selby: Rather than four sheets of paper, just two-side it.

Mayor Jones: Oh, the report. Well you'll be amazed. Actually this second page, by the time you fill in the charges on the second page, you're going to have a larger document anyway, so just make allowance for that and double-sided is fine.

Councilman Collier: Paper is cheap when it comes to being able to answer the questions to constituents, though. What actually did you want to see tonight on this Ma'am?

Mayor Jones: I definitely wanted to see if there was anything that was left out, get the Chief's opinion after he reviewed it with the rest of the Council this evening. This is the first time Council has seen it. Again, it varies from Rehoboth's report. We have Courts, we have other reporting departments that come into this. That would not be necessary here.

Councilman Collier: Personally, I'd like to see this adopted based on what I've seen thus far, but again, it's not my decision alone. If you want this in the form of a motion, I'll give it to you.

Vice Mayor Booros: Can we make a motion to allow you to make this decision, in conjunction with the Police Chief, sometime during the course of the month, as opposed to it having to come back to us?

Mayor Jones: We can vote on this?

Seth Thompson: Uh-huh.

Mayor Jones: We can vote on this, Mr. Thompson says. It says right up there, possible vote for the following items.

Vice Mayor Booros: If he needs to make corrections to it, or changes to it, or you need to make changes or corrections...

Mayor Jones: I don't need to make any changes to it and I'm offering the floor to the Chief, in case he would like to make any comments or changes to this report.

Chief Phillips: So far it looks fairly good, but I would like to look it over just to see if there is something else we need to add or something different in there; but everything looks like it covers just about everything.

Mayor Jones: Okay.

Councilman West: I would like to see the Chief present it to his officers and see what they've got to think, because they might have some additions or corrections that they might want.

Vice Mayor Booros: So I would like to make a motion to allow the Mayor to make the final administrative decision about what form we're going to use and not have to bring it back before Council.

Councilman West: I'll second that motion.

Mayor Jones: Any other discussion? I'm going to recuse myself. All those in favor say aye. Opposed. Motion carried. One last piece of business and we are finished for the evening. I need to turn to Mr. Thompson and see if tomorrow evening's scheduled meeting is necessary at this time?

Seth Thompson: I don't believe so, Madame Mayor, so if you just want to make that as a public announcement that people don't show up and if the website in the morning could reflect that it's been canceled, that would be good too.

Mayor Jones: So we are making that public notice that the meeting that was scheduled for tomorrow evening, will not take place.

#### 17. Adjournment

Councilman West: Madame Mayor, I make a motion that we adjourn.

Councilwoman Patterson: Second.

Mayor Jones: All those in favor say aye. Opposed. Motion carried. Meeting adjourned at 10:07 p.m.