

**Milton Town Council Meeting
Milton Library, 121 Union Street
Monday, December 15, 2014, 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

Councilwoman Patterson	Present
Councilman Garde	Present
Councilman Coté	Present
Councilwoman Parker-Selby	Present
Councilman Kost	Present
Mayor Jones	Present
Councilman West	Absent

5. Public Participation

- Richard Miller, Grist Mill Drive: Thank you. Last month I presented an activity to the Council. It was the Annual Cookie Drop Off and I'm proud to say that Milton and the surrounding areas came up with a huge amount of cookies this year. The total we had last year was 140; this year we surpassed it at 283. We were one of 17 drop off points and in total 2,700 dozen were collected. They all go to Delaware Troops who are serving overseas. This will probably be the last one. I would also, with some sadness, announce that one of our neighbor's, Jack Horan, passed away on Thursday. His friends and his neighbor's will miss him. Thank you.
- Ginny Weeks, 119 Clifton Street: First of all I wanted to thank the town and all those who had anything to do with the first spectacular Saturday. It was wonderful seeing the energy of our town, so thank you to anybody who had anything to do with it. However, that said, my husband and I drove down in the morning to take part in it and parking was scarce, so we turned onto Front Street Extension, to park and low and behold there's a sign there that says Parking Reserved for Patrons of Union Street Beauty Salon, All Others Will Be Towed. Now, as far as I know that's a public street, isn't it?
Mayor Jones: We're talking about the piece of surveyed street that comes off of Union right down there to the water? Behind the theater.
Ginny Weeks: Along side the theater. Along side that empty parking lot and so if it is, I'm asking that we rectify that situation, because there are a lot of people from out of town that were looking for parking and were frightened off, I'm sure from parking there. Okay? And the other thing was, I went to the FOIA meeting and it was very enlightening, very good. I was sorry that we were only seven people there. You all missed a good lesson, but that said, I noticed that the Charter and Ordinance Review Committee posted their agenda on December 11th for a meeting coming up on December 18th and it says that they're going to discuss and consider a possible vote regarding

changes to Section 1 through 28 of the Charter; that's the Old Business and the New Business is the same thing for Sections 29 through 36. So basically that's the entire Charter and it was my understanding from the FOIA request that you have to tell people, you have to be specific about what you're going to discuss and what articles you're going to vote on. I mean, are they going to do the whole Charter in one night? We need to clean this up a bit. It's been the standard procedure here for a long time, but it needs to be fixed, because I should be able to read this and say oh look, they're going to address and vote on recommendations for the powers of the Town Manager, or for the Mayor, or something. We should have some idea of what they're going to do. This, it could be anything in the total Charter, so it doesn't tell us anything. So I would ask that you get with the Town Solicitor and try to clean this up a little bit. Thank you.

Mayor Jones: I did read in the minutes from that meeting, that the sub-sections are... and I think you agree that they are better announced on those agendas, so thank you for...

Ginny Weeks: This isn't even sub-sections, this is Chapters.

Seth Thompson: I think part of it is a function of what that particular committee is doing currently, where they're reviewing the Charter in total, so I would see that as a different scenario than say if there was an ordinance just changing something from a special use to a Permitted Use. I think that's easier to spell out in more detail. Part of this, I think, is a function of what they're actually doing; that they are reviewing the Charter in total.

Ginny Weeks: Absolutely. Councilman Garde, you're on it. Are you going to review the entire Charter on the 18th?

Councilman Garde: We are not.

Ginny Weeks: Yet, that's what's advertised, so they need to be a little bit more succinct. I'm not arguing with you. I'm just asking.

Seth Thompson: Right. I think it's an important point. I guess I'm just trying to... and maybe I don't understand exactly where the committee is in the process, so for instance, when you're talking about borrowing money, if the committee was at the level where it was just considering a recommended change in terms of the limit before it has to go to referendum; something like that. It would be easier to spell that out and much better, obviously, to spell out that that's the only issue that they're looking at in that section of the charter.

Ginny Weeks: Right, but the committee's been meeting for awhile now and they may, or may not be, I have no idea, getting to the point where they're ready to make some recommendations and take a vote on their recommendations. You would never know it from this.

Seth Thompson: Right.

Ginny Weeks: So it really needs to be looked at and adjusted. Thank you very much.

6. Additions or Corrections to the Agenda

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

Councilman Kost: I make a motion that Item b, Cannery Village punch list be dropped from tonight's agenda and put into the agenda for our next meeting.

Seth Thompson: That's item 9.b?

Councilman Kost: 9.b. Yes.

Councilman Garde: I'll second that for the purpose of discussion.

Mayor Jones: Thank you Councilman Garde. Can someone tell us why it's being removed from the agenda again?

Seth Thompson: From the solicitor's perspective, I haven't received anything further from the developer. At least, I'm not aware of anything. I suppose that's why there isn't anything further to discuss. At this point, we haven't received any proposal.

Councilman Kost: You have not received anything official from the developer?

Mayor Jones: Okay, then I suggest we keep placing it on the agenda in the hopes that they come forward soon with a new document. Are there any other additions or corrections?

Seth Thompson: Do you need a vote on that motion?

Mayor Jones: Yes. All in favor for amending the agenda by removing 9.b. say aye. Opposed. Motion carried.

7. Agenda Approval

Mayor Jones: Also, an approval of that agenda, as changed, please.

Councilwoman Parker-Selby: I move that we approve the agenda as changed.

Councilwoman Patterson: I'll second.

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

8. Award of a Commendation

Mayor Jones: Captain Cornwell you have an award, a commendation that you would like to give out this evening?

Captain Cornwell: Tonight we will give a commendation to Lt. Harvey. Just so everyone's aware, recently we had a horrendous crime that happened in town. First I just want to say that everybody's still keep the family and victim in your thoughts and prayers. It's a life changing event that happened there and it happened in our community. It's been awhile since anything like that has happened in this area, probably since the early 90's or late 80's, an incident out on Cave Neck Road that actually touched the town then also. Anyway, Lt. Harvey working that night responded to a shots fired complaint out to Park Royal Apartments. As he was doing a search of the area, he located a car that had a couple of doors partially opened. He approached the car. Upon coming up to the car he saw a horrendous scene inside the vehicle. As we know, that one person passed away from that, the other one, the 14-year old is still trying to recover from that. During that time period, Lt. Harvey called in what he had found to State Police Dispatch Center, asked for back-up to come. He cleared the area and made sure that the area was safe, did a sweep of the area to make sure that the shooter wasn't still present in the area and then he gave first aid to the victims in the car, contacted them. He was critical in the solving of that crime. The Delaware State Police, the first trooper on scene, was 12 minutes after he called for back-up. A homicide or a shooting in progress is one of the highest priority calls that we can respond to in police work and it took 12 minutes for back-up to get to him. If he hadn't have been working that night, sad to say that the second victim might not have survived and nobody might ever have found the actual scene of what happened that night and we would have an unsolved homicide. By the Lieutenant being there, he obtained the information on the suspect shooter from the one surviving victim and through that, that's a major break in the case. So what I want to do is give Lt. Harvey a Distinguished Service Award for his action that night. There's more to the story, that I can't talk about. He was involved more than just at the scene, but thanks to Lt. Harvey and the Milton Police Department, this was a

solvable homicide and the suspect's not out there roaming around now. So I'd like to give Lt. Harvey this commendation.

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

- a. Shipbuilders Water Tower Foundation – construction administration and inspection fees
Mayor Jones: We will discuss the inspection portion of the construction administration and we have both Carlton Savage and Dan Barbado both from Pennoni. So would you like to take a microphone and be prepared for any questions that the Council may have for you. Any questions that you brought with you from your report last month, we are now free to ask. Would you like to give us a general, overall comment on this document?

Carlton Savage, Pennoni: Good evening, Mayor and Council. The document we prepared for you was an estimated fee for the construction administration, survey stake out and the inspection and testing necessary, as requested, for the water tower number two, that we prepared the design documents for. There were three items involved in that proposal. As I said, one was construction administration, which would be reviewing of shop drawings, any questions the contractor would have, basically anything from the beginning of construction, pre-bid, pre-construction meetings, all the way through contract close-out (that would be part of that). The next step would be stake out and I think there was some question, maybe what was required on the stake out and it's going to be pretty minor for what's out there. We're not moving the water tower very far, but the contractor is going to request the location to be staked out and possibly each one of the bolts may have to be pinned, so that might be another part of the construction stake out. Then the biggest item there was obviously the inspection and testing and that includes multiple disciplines of inspection. There's geotechnical inspection with the foundation; there's also some structural steel inspection, which would include when they go to move the tower, we're going to have inspector's on site during that time, to make sure that things are unbolted properly and then moved and then rebolted to the new foundation. So the total cost there is three items. I brought Dan Barbado, he's one of our senior engineers, as well. He deals with our municipalities, so he's here also to answer questions.

Councilman Garde: Since Pennoni prepared the specification for the contractor's to bid, I'm assuming that the spec indicated that they were not required to do a survey. Is that correct? That the survey would be performed by others and the results of the survey would be given to the contractor, to dovetail with your doing the survey.

Carlton Savage: A survey was performed for design.

Councilman Garde: I'm talking about the stake out, the specific stake out that you are quoting.

Carlton Savage: We were requested to have the owner provide the stake out services, inspection services, all those items.

Councilman Garde: That dovetails properly into the contractor's scope, because he did not put that in his...

Carlton Savage: You're correct. You're absolutely correct.

Councilman Garde: It would frequently be part of the contractor's scope to do that. We specifically left it out.

Carlton Savage: Correct.

Councilman Garde: So that we could be in charge of this stakeout.

Carlton Savage: Correct.

Councilman Garde: I'm making affirmative statements here, they're really questions.

Carlton Savage: Sorry, you're correct.

Councilman Garde: But I just want to inform everyone here that this stakeout dovetails properly into the specification for the General Contractor.

Carlton Savage: And there was also an Addendum to the Contract that was written. That Addendum also clarified the Contract documents. There were a lot of questions, because it is typical that the Contractor will be responsible for all the tests and the inspection; but being that the situation was at hand; the reason that we feel the initial foundation had some issues was possibly due to inspection and testing, at that time.

Councilman Garde: The same thing is true for the test pile, observation and testing, that's normally a contractor responsibility and in this case, we removed it from his scope.

Carlton Savage: Correct.

Councilman Garde: Okay. I don't have any other questions. I just wanted to ensure the public of that, among other things. One of the reasons we've asked you here, though, is that guestimate that you provided and I understand that it was a guestimate, it came off the top of your head; but basically in order of magnitude, it's almost a factor of... the real quote is almost a factor of two.

Carlton Savage: And I think the night that you guys were awarding the original contract, basically in the back of my mind, I based my estimate on inspection alone. I think what you're going to see is there's inspection, as well as some stake out, as well as some CA (Contract Admin.) that's going along with that and I really just looked at four weeks of inspection, based on the contractor's estimate of time, multiply that by a rate that fit the whole thing and that gave me... I think I quoted about \$20,000.

Councilman Garde: And one last one from me. Do you have a rigging engineer, qualified to review the rigging plan submitted by a Professional Engineer, by the sub-contractor or the contractor?

Carlton Savage: Sure. I'll let Dan answer that.

Dan Barbado: We do and that would be included, so we've got structural engineer's and all of our engineer's; if that's a submittal that's part of the contract documents, we can review that. We're qualified.

Councilman Garde: The rigging plan is a special plan required by this spec and it requires an equally well-qualified engineer... and not just a structural engineer. I call them a rigging engineer. I don't know if that's an official title. It's an unofficial title.

Dan Barbado: Right. I know what you mean though and we do have a reviewer for that.

Councilman Garde: And will you review the documentation on the reads that they use? In other words, the lifting equipment needs to have been inspected and tested within the recent past and will you be looking at those documents?

Dan Barbado: We look at documentation for that equipment. That's correct.

Councilman Garde: Thank you.

Councilman Kost: When I look at the schedule, the second sentence, "We request two weeks notice..." Would you explain the second part of that, about request for field

testing services must be received and confirmed?

Dan Barbado: Typically that's not going to be the case. Some of these inspector's, because they're specialized type of inspector's, geotechnical inspector. We have steel inspector's. They're all coming from different places, so realistically...

Councilman Kost: That's not the question I'm asking. Why isn't it in this proposal? That should be between you and the contractor. I'm just a little confused why it's here.

Dan Barbado: There will not be a contract between us and the contractor. The contract will be between the town and Pennoni, so there would be no agreement.

Councilman Kost: So we have to give you notice to go inspect? Is that what this is saying?

Carlton Savage: No, this item, I think you're on page 4, the Schedule says we request two weeks notice after approved Scope of Service for Inspection Testing of the project to begin. So what we're saying is...

Councilman Kost: I understand that.

Carlton Savage: Right, if you approve tonight, we'd like to have two weeks until we actually have somebody go to start inspection. It's not per inspection. It's two weeks.

Councilman Kost: It's the next sentence that begins Requests. That confuses me.

Carlton Savage: Requests for field testing must be, I guess we're directing that more towards the contractor.

Councilman Kost: I'm wondering how we would know.

Dan Barbado: So we can strike that. That's fine.

Carlton Savage: Yes. The contract that we have, that we gave you is a typical one between a contractor and an engineer to do the inspection. I've stricken a lot of actual comments in there, because there's usually a lot of language that would come into play. If he calls us the night before and says I can't be out there tomorrow; those kinds of things. Unfortunately, you being the owner, is going to be tough for you to have any... you're looking for Pennoni to be the one administering some of those requests; so we'll strike that. I mean, if they want to start tomorrow, then that's fine. We'll have people out there.

Mayor Jones: Mine had to do with the schedule, but it had to do with the second part of the first sentence, which is "a 48-hour notice for individual field testing assignments", so Milton is going to be working through the contractor on those schedule times, so that Milton can notify you? I just want to make sure this goes smoothly.

Carlton Savage: I don't anticipate that being the case. I anticipate the contractor coordinating with Pennoni directly. I don't see any way for, especially you as Council, to administer that. If it was somebody else, a town, I think it would just be a back and forth, which wouldn't be needed. The truck is going to be, to be honest with you, when we get into the inspection and we get a rain day, or a snow day; the contractor needs to be notified. Now, maybe we can bring this up during the pre-construction meeting and have the contractor maybe sign something along those lines, but right now we're just giving you a budgetary estimate. It is a little more like a proposal that a contractor would see.

Mayor Jones: And this is another issue outside of the money and it has to do with the Terms and Conditions on page 6. It states that "Pennoni can neither controls nor supervises the work. We are not responsible for errors and omissions of the contractor."

Does Pennoni feel the responsibility to report errors and omissions by the contractor, to the town? We understand you're not responsible for their work, but you'll have somebody on site when this is going on. Can we be assured that that's going to be something that would be reported immediately?

Carlton Savage: Correct. Typically when you inspect any project, an inspector is not going to be over there telling the contractor exactly what to do. His job is to review what's being done, document what's being done and report back to the town. I guess what that general statement is saying is that we're not going to be instructing the contractor. We would be instructing the town, at that point, that guys we need to take a stop. We need to hold up, that wasn't how the contract documents were written and then take another step forward, so you are correct.

Mayor Jones: Okay.

Councilman Garde: We have neither authorized nor expect you to have Stop Work Authorizations? Is that correct? If work needs to be stopped because it's being done in non-conformance with the specification, whom do you expect to make the Stop Work Order?

Carlton Savage: I guess it would be based on... We're not out there, also, not out there looking for safety type issues, so if something safety were to happen, it would immediately need to be stopped, we would report to the town through Greg and through Kristy immediately, to instruct... The town is then going to have to step in and make a decision. We would be giving a general recommendation.

Councilman Garde: I'm more or less thinking about location of an auger or starting to auger the first hole and you see that they're in non-compliance with your specification and work should be stopped in order to bring it into compliance...

Carlton Savage: Absolutely.

Councilman Garde: You expect the Town to issue that Stop Work Order on your recommendation, because you have no contract with the contractor?

Carlton Savage: Right, we don't have contractual authority to stop the contract and that would cause a problem. We would have to come back, after the fact. He would have to install the piles as he thinks right and then we would then... the Town would have to order a Stop Work and if the piles are wrong, and we're right, then we would have to go out there and change the Scope of Work. That's a little bit different than your standard...

Councilman Garde: Standard safety.

Carlton Savage: Correct.

Councilman Garde: I had asked this question before, but you have a General Services Agreement of some form with the Town? Is that correct, and that has all the terms and conditions for liability and insurance and all of the normal boiler plate that goes in a contract?

Carlton Savage: Correct.

Councilman Garde: So that you only need a Work Order, similar to this in order to undertake the work under the terms of the General Contract that's in place. Is that correct?

Carlton Savage: Correct. We also added some rates that you'll see in there, that weren't standard rates, that our General Contract would have. It's just a specialized service that some testing prices, things like that, that gives the Council a means of quantifying what

our proposal is.

Councilman Garde: I do take exception... I'm reading a sentence that says "We have no control or responsibility for safety." I take issue with that. You may have no control over theirs, but you have responsibility for safety, every man, jack on the site does, it doesn't go to only the Project Manager or the Town observer. Every man, including your guys, have responsibility for safety. If not, only their own safety, but safety is a shared responsibility and you can't dump it.

Carlton Savage: I agree with that and with the testing and inspection, these guys are out there with drill rigs and everything else, so our employee's definitely have the qualification for safety and if something is wrong, they'll leave the site. We're working for the Town in this case, so if it's not safe to be out there, they won't be.

Dan Barbado: I just want to clarify. I think what happened here, some of the text and the terms and conditions is from the testing guys, so they're not used to being the one who's responsible for the inspection or for the safety. For us, that's another item we can strike there, so Carlton, any engineer on the site's responsible by law to report anything that's unsafe or incorrect or is an error in omission. I think we'll make sure we don't include wording like that in our next.

Councilman Garde: Thank you. But also, it says the proposal is for construction materials, testing services only and that is also incorrect, so you might want to tweak that language to include administration services and stake out.

Dan Barbado: That is correct. Sure.

Councilman Garde: I'm just reading your words.

Dan Barbado: I understand. It took a collaboration of people and I pulled together most of it and put it together and there are some things that are more towards the testing and inspection.

Mayor Jones: Are there any questions by Council? Mr. Wingo, you'll be a part of this. Do you have any questions for Pennoni?

Greg Wingo: No, not at this time.

Dan Barbado: And the other thing, just to point out to you; these are all budgetary estimates. We only bill for the work that's actually performed and as you probably saw from the design portion, there was a large amount of money left over, we rolled those monies back into the bidding of the project. So that's the same thing we would do here. We're only going to bill for the actual manpower and labor that's out there, performing the tasks.

Councilman Garde: Does the General Services Agreement call for Work Orders not to exceed? We all know and hope that you will under-run. My question is, what happens if you over-run the estimate?

Carlton Savage: We don't, well our contract with the Town is to provide not to exceed Task Orders and that's why we did this, so when you give a not to exceed number, we need to make sure we bracketed that out of bounds of the numbers, so we don't have to come back in and do another presentation.

Councilman Garde: So this is a not to exceed?

Carlton Savage: This is a not to exceed. Right.

Councilman Garde: And do you have an obligation to report to us, let's say when there's 20% left, or some other number? Is that routine for you?

Carlton Savage: It's routine for us. We will not exceed our contract amount, without talking first. I mean, we're not... As it gets closer we monitor weekly, so we don't tell you afterwards. It would be long in advance, if we think something's going to be in excess of the contract amount.

Councilman Garde: Since I'm relatively new on the Council, I don't know what's in your contract, so is there a requirement on your part to notify us when you get within some percentage of a not to exceed?

Carlton Savage: There's a requirement to notify, but not at a certain percentage. We're not going to do that at a very close increment.

Councilman Garde: It's all estimated anyway, but we don't want to find out when you've got 15¢ left to spend that you're going to over-run.

Carlton Savage: That will not happen.

Councilman Garde: Thank you.

Mayor Jones: Hearing no other questions or comments, or concerns from Council...

Councilman Garde: I'm sorry. I have one more. Your invoices are payable upon receipt? Again, for a service like this, I'm used to seeing something like Net 30 or something up to then, but upon receipts is fairly restrictive on our part.

Carlton Savage: Absolutely. In the original contract, the way we bill is once we receive the bills for the month, we then take care of those and make sure they are all properly in order, submit those to the town, generally 30 days is the turnaround time on the bills.

Councilman Garde: Yes, there's a term of art that says Net 30, which is what... the net of the invoice is due 30 days after it's receipt.

Carlton Savage: Correct and I don't think there's a time yet that we've, at the 30 days, we've charged interest. It's not in our business to charge interest.

Councilman Garde: Yeah, no, but it just says that due upon receipt and that means the day we get it we are supposed to pay it, by reading it literally and I don't think that's the intention.

Carlton Savage: From here on out I think I'm going to refer to the original contract, instead of trying to... I think that will make everything a little easier. We're not trying to change our original contract, in any way. It's just to provide a budgetary estimate and with that, there was some documentation that came along that seems a little out of place.

Mayor Jones: Are we happy with the discussion and what you are willing to take out of the contract, without it being rewritten to be reviewed again? We can go forward from here?

Seth Thompson: Right, the way I envision it and I made markings and I'll compare them with Mrs. Rogers and then we'll send it over to Pennoni with the changes.

Carlton Savage: Absolutely, thank you.

Mayor Jones: Well thank you for the explanation. It's very helpful. Hearing no more questions, is Council ready to make a vote? So I would need a motion.

Councilman Garde: I make a motion that we approve the Task Order Proposal prepared by Pennoni Associates for construction administration, survey stake out, inspection and testing services, as modified by the discussions we've had this evening.

Councilman Coté: Second.

Mayor Jones: And does the motion need to include Not To Exceed the value?

Seth Thompson: I had marked that down as we're going to put that in, as an express

term.

Mayor Jones: Okay. So we are ready to vote. No further discussion? All those in favor say aye. Opposed. Motion is carried. Thank you.

- b. Cannery Village punch list, development standards and subdivision and site plan approvals - **TABLED UNTIL NEXT MEETING**

- c. Policy/Procedure and Request Form for collections during parades

Mayor Jones: Okay, last month Mr. Collier brought a proposed Policy and Procedure having to do with the collections by charitable groups at public parades. Mr. Collier?

John Collier: Good evening Mayor and Council. I brought back to you this evening a proposal for a policy for the allowing of charitable contributions during public parades, as previously stated and in the cover memo that you received with the updated changes. A request was made and granted primarily because we had no policy that told us that we could or could not and in the interest of not being inundated with these requests, or having to take wild guesses, I thought it would be wise to at least establish some guidelines to allow for administrative approval, otherwise the only other way I would know to deal with this, would be to refer groups making this request to appear before Council and make the request publicly and have the Council approve them on a request by request basis. I did submit to you this evening red-line documents with changes that were recommended at the last meeting, as well as this evening you also have a memorandum that is an analysis of how these particular things are handled in surrounding communities. All this is here for your consideration and I'm happy to answer any questions you may have.

Councilwoman Parker-Selby: I think I've asked this before. I was concerned, because I wasn't quite clear on exactly why we were doing this type of request. Would you clarify for me, again, and I asked was there a problem that occurred, or something... because I don't recall seeing anything out of the ordinary in the parades in Milton for the last 20 years or so.

John Collier: No, Ma'am. In fact this past parade was the first time that there was ever a request, to my knowledge, that was made to establish collection points for canned goods. But, again, in trying to think down the road, if you allow it one time and one group observes it, then what's to say that the original group and a second group don't come forward, or even a second, third or fourth group don't come forward. We have nothing in our ordinances that either permit it, nor give us the ability to deny it, so I thought that a policy, at least a policy, would be prudent as far as allowing for administrative approval, otherwise, from my point-of-view and from where I sit, I have no other choice in a matter that we have nothing in regard to it, to refer them to Council for a decision in the future and I didn't think the Council needed to be inundated with these type of requests, if we could establish a very simple set of rules to administer them by.

Councilwoman Parker-Selby: Thank you.

John Collier: You're quite welcome.

Councilwoman Parker-Selby: One more question, I guess. What groups were asking for the canned goods? Was it somewhere like the Food Bank, or?

John Collier: The group that came forward and it's right in the memo that covered this, was the Milton Community Food Pantry, that came and made the initial request.

Councilwoman Parker-Selby: So it was a reliable group?

John Collier: Yes, Ma'am. That's part of the thing that allows you to do this, is that you want to be able to screen these organizations and have some idea of who you're permitting to do that and there's language included in the policy that I drafted, that would give us the ability to do such.

Councilwoman Parker-Selby: I just don't want us to start doing policies for every little thing.

John Collier: And I understand that. If there was something in our ordinances that addressed it specifically, I would be happy to abide by the ordinances, but it was either a policy or we rewrite the ordinances and I'm here for the Council's direction.

Councilwoman Parker-Selby: Then when I looked at the Georgetown, Lewes and Milford, they have a permit, no fee, that was one of the towns. Then one had a fee. They're all different, so...

John Collier: That's correct.

Councilwoman Parker-Selby: So there's no set thing that all the towns have the same thing? Okay.

Mayor Jones: So Georgetown simply requires a permit.

Councilwoman Parker-Selby: Right.

Mayor Jones: Okay.

John Collier: And Georgetown requires a permit, as long as it doesn't violate any of the other provision of their ordinance.

Mayor Jones: Okay.

Councilman Garde: Since we don't have it in our Ordinances, I think a simple policy, such as the one you've drafted is not inappropriate for us to consider. In other words, it is appropriate for us to consider, rather than incorporating something into the ordinances, a simple policy, four pages and a 1-1/2 page application makes a lot of sense to me.

Seth Thompson: I tend to agree from a legal perspective. I think it's always helpful when you have a policy, that tends to avoid any arbitrary, or capricious decisions. There's a standard. The staff and town administration can then rely upon in making those determinations and that avoids a scenario where one group feels like they were treated differently from somebody else.

Lorraine Wasserman: Can I just make one comment please?

Mayor Jones: You need to go to the microphone, Mrs. Wasserman.

Lorraine Wasserman, 244 West Shore Drive: I just recall during the St. Patty's Day Parade when I was driving in the parade with the Mayor delegation, that the Mayor seemed to have a hissy fit that people were selling a couple of green balloons. Now, I'm an Irish Jew and I don't care, but I just think it's a personal thing. Don't charge the people. Let them sell what they want. If they want to make a buck on something, why not? With all the other problems we have in this town, you're going to deal with this crap, from tripping over the sidewalks, the town's falling apart, this is ridiculous. Go get some issues, like our wonderful police, start supporting them. Another thing, I'm out of order...

Mayor Jones: Mrs. Wasserman, please take your seat.

Lorraine Wasserman: You're welcome. You could all give up your salaries so that your policeman can get funded.

Mayor Jones: The one thing that does make this particular policy attractive to me is, I have to agree with Mr. Thompson. It allows for an administrative approval to be handled at that level, instead of having an applicant come in front of all of Council. I think a simple policy is the way to manage something you can neither say yes or no to.

Councilwoman Parker-Selby: I've heard all of you, but I'm just not for this kind of policy. But that's me. Vote whenever you're ready.

Mayor Jones: Any more comments or concerns from Council? Do I hear a motion on this issue?

Councilman Coté: Motion to approve the policy as presented.

Councilman Garde: Second.

Mayor Jones: Any further discussion?

Councilwoman Patterson: Is there a fee associated with the policy?

John Collier: No, there is not. The only time a fee becomes involved councilwoman, would be if they were actually exchanging goods for money and then a Peddler's License is required for that particular thing.

Councilwoman Patterson: And that's already required by the town?

John Collier: Yes.

Councilman Garde: That's already in the ordinances.

Councilwoman Patterson: That's already in the ordinances. Thank you.

Mayor Jones: Anything else? All those in favor say aye. Opposed.

Councilwoman Parker-Selby: Opposed.

Mayor Jones: Motion carried. Thank you very much.

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

a. Police Ad Hoc – status of assigned tasks and future tasks

Mayor Jones: I put in front of you today in a “draft” form; these minutes are not approved by the Ad Hoc Committee. This was the meeting of November 24th. Now the discussion this evening centers around the statements made in the paper in respect to the Police Ad Hoc Committee's request to disband the Police Department. As a statement that was put on the website on December the 8th, the Council did not direct the Police Ad Hoc Committee in reference to this task and this topic. As a matter of fact, the Mayor and Council are still waiting for the answers to two of the charges that Mayor and Council gave and that was in reference to hot seating vs. take home vehicles and the effectiveness and the efficiency of the police K-9, as it contributes to the Milton Police Department and it's citizens. So that's why the statement was put out on the website, so that it would address the comments that were made in the paper and thought it best that since the Mayor and Council made the charge to this Committee, that it should not be my sole responsibility to either let them go forward or not with these topics. It really does belong to Council, as a whole. So we're here to discuss that this evening.

Councilwoman Parker-Selby: I found this out by reading the newspaper and it really upset me, because I'm thinking there's no way I would approve of getting rid of any Police Department in the Town of Milton. First of all, just recently and I'm going to praise him, as well, the Captain Cornwell I called him because of an incident that

occurred in my neighborhood, personal incident and he was there in no time. Now had I had to wait for the State Police, which I've had experiences with that before I annexed into the town, it would have been much later, because I had a problem years ago with 911 not responding on time for some suspicious activity on Milton-Ellendale Highway and Milton-Ellendale Highway there's a lot of traffic out there now, more so than ever and I have a big concern, being that it's a commercial area, because we get all kinds of people, transient and what have you, walking at all hours of the evening, especially in the summertime and we have a lot of vigilant neighbor's, thank goodness, and I want to again comment Captain Cornwell and when he got up here tonight and commended Lt. Derrick Harvey, I thought that was excellent that we have town police service who are doing what police should be doing. With the onset of all the things happening nationally, in this country, we cannot afford to even think about losing our police people. In fact, we need to really work on how we're going to increase our police force, so that we can all be feeling safe and protected in this small town, which is, by the way, growing. That's my comment.

Councilman Coté: Just a thought or two. We recently had the FOIA Road Show, which I was not able to attend, but from having sat here and been to meetings before I sat here, if it's not on the agenda, it doesn't get discussed. That particular item was not on the agenda for that Committee's meeting. It's not clear to me how it moved forward to discussion and a vote. Obviously, if it wasn't on the agenda, should never have been discussed and it effectively didn't happen, except that it did and it got reported. I think it was ill-advised, at best, and caused a lot of upset, consternation with the resident's, a significant amount of turmoil in Town Hall, trying to answer the questions and some of the discussion is based on budgetary items and I don't believe that Committee has any charge, any jurisdiction, any authority to try and work on the budget.

Councilwoman Patterson: I had the same concern when I saw that it was not on the agenda, so I'm not sure how they could have voted on it. I'm not for disbanding the Police Department, but I do see a little bit of frustration that the Ad Hoc Committee was given this job, that they were tasked by Council to look into the police cars and the other matter and it says here, no new information from the Police Department in the last two months. So I can see the frustration of not being able to get the information they need to make the decisions that the Council had tasked them with. But it did certainly create a lot of false information and it sort of spread like wildfire through the town.

Councilman Garde: I have a procedural question. The "draft" minutes which are unapproved said Police Ad Hoc Committee makes the recommendation to Town Council. My question is, have they made a recommendation that Town Council needs to consider, or is that going to come only after their next meeting, on which there is an agenda item, or considering, at their level disbanding the Police Department? So as I interpret it, we are not required to take that recommendation under a vote at this meeting.

Seth Thompson: Councilman, I think that's accurate. My understanding is the Committee recognized the problem, in terms of their notice and so it will be on their next meeting's agenda, properly noticed.

Councilman Garde: The next meeting agenda has been published and it's on there?

Mayor Jones: Yes.

Councilman Garde: But as far as the Town Council sitting this evening, we have no obligation to consider it for a possible vote?

Seth Thompson: That's right, Councilman and I would distinguish between certain of your Committee's vs. say your Planning and Zoning Commission that's a standing Commission and has a specific timeframe for the Council to act on their recommendations. Here's an Ad Hoc Committee. The Council has tasked them with certain things, that they're then to report back to the Council. There isn't something that mandates the Council acting on their recommendations within any specified period of time.

Councilman Garde: Thank you, Counselor.

Mayor Jones: So, no, no recommendation has been received. This was asked to be placed on the agenda so that we could discuss any concerns that we have in reference to this.

Councilman Garde: Twelve minutes. That's my concern. I said simply, twelve minutes.

Mayor Jones: Response time.

Councilman Garde: And that was for the most, that was for a call that gins up instantaneous. It's the fastest call that the local department can give to the State. They react as fast as it is humanly possible. Twelve minutes. Unsatisfactory, as far as I'm concerned.

Councilwoman Parker-Selby: I agree.

Councilwoman Patterson: I will say. One point of clarification. One of the reasons that the Ad Hoc Committee was created, was to look at this outer structure of Milton and why we are losing Police Officers so fast and to try to come up with a way to pay the officers a little bit more, that's more conducive and concurrent with all the other municipalities around us and so they were looking at the K-9 unit and also hot seating of the cars. We're still waiting for that information, because it might be able to help us try to look at the salaries and try to bring everything up where we need to have them, so we'd have officer's that stay in town and to streamline the Police Department. I do know that sometimes the information that you request from the Police Department is a little... it doesn't get to us as quickly as we need it and I know that's the frustration that I think the Ad Hoc Committee has.

Captain Cornwell: To address the question about any further information, the meeting previous to this I had given a spreadsheet out with quite a bit of information. Mr. Thomson brought in a seven year study on take home cars, I believe it was, from Washington State showing that there's more of a benefit for take home cars, than there are for not. The average not pooled car or hot seated car is replacement of 1.8 years, so less than two years you have to replace a car at about \$37,000 or so dollars to give all of us a car. So you're talking about for a department our size, if you didn't have take home, you're talking about seven to eight cars and...

Councilwoman Patterson: Well I think that... and not to interrupt, but we have an officer that was driving 60 miles a day or something. It just... It wasn't arbitrary, we're really looking for information.

Captain Cornwell: Well that information was provided. The meeting that was set. It was set, I believe, for November 10th and then something came up where no one could make November 10th, so it was put to November 24th; the procedure that was in place was the

people of the panel would email any requests for information to the Mayor and then the Mayor would send those requests to me. It was also discussed at the last meeting that I attended, that the Ad Hoc Committee, that the Police Department wasn't the only one that was tasked with getting information. The Ad Hoc Committee needed to get some information themselves. Roger did that at the first meeting, when he brought in a lot of information on the take home car policies. The thing is, the Ad Hoc Committee members never sent the Mayor a request for any type of further information, other than what I produced at the last meeting. I have not received any emails requesting any more information; nothing was sent that night; they were going to talk about in the future meeting, about the modification of sharing vehicles and nobody could come up with an idea of what the modification of sharing vehicles was, but they were going to talk about that at the next meeting. I never received any request for any further questions, so I can't provide anything that was never requested of me and I spoke to the Mayor the other night and she never received any follow-up questions either. It's also upsetting, here I am at a vigil, knowing that the suspect is going to show up at the vigil, which he did; that night; and knowing that we had our four officer's there protecting those people at that vigil and then to have the Ad Hoc Committee meet and talk about doing way with the Police Department, while we're out there with a homicidal maniac that just shot two people in a crowd of 40, 50 or 60 people and for them to come and do this. I can tell you that this is not the first time that they violated Freedom of Information Act. Back in December, I wasn't part of the Committee, I went to attend it, Chief Phillips couldn't be there; but the last time they had it, before they started, they actually took a vote on who was going to be the leader, Lynn Ekelund was voted as leader and they voted on the office and that was not on the agenda, then either, so they have a history of violating Freedom of Information Act.

Mayor Jones: Captain, I would like to make clear to Councilwoman Patterson and the rest of Council; that the Police Ad Hoc Committee did indeed make a recommendation to the Personnel Committee in reference to the officer retention issue, that recommendation of the Personnel Committee was then brought to Council for a vote and it did go forward, so they did do the first leg of their assignment when they came forward with that retention salary issue; of course, that was last year, so we're onto a new topic...

Captain Cornwell: In that part, was also the take home car policy and that was brought up again because the Finance Committee asked to see if it was feasible for that to happen and through Roger's thing and if you look at our vehicles, you can't go to any department, except for the Delaware State Police and see older Crown Vic's out there. Everybody has newer vehicles, compared to us. The vehicle rate for a take home is about 5-7 years for a vehicle to last. Ours are lasting longer than that, but all that stuff was in the study and brought up.

Councilman Coté: Captain, what's the newest vehicle we have?

Captain Cornwell: The newest vehicle we have is a 2008 Ford Crown Vic. We have a 2003 Suburban and a 2004 Chevy Tahoe and the rest of the vehicles are 2006 or 2007. There's not many, if any, departments around in this area, or in this whole State, that have vehicles that age that are still running and functioning.

Councilman Coté: Thank you.

Mayor Jones: I'm not exactly sure what the possible vote was, to be on this item, this evening. As stated on the website, again, these Committee's are advisory committee's. They will make a recommendation to the Council. Any decisions regarding the operations are again the sole responsibility of the Mayor and Council, so this will not simply be passed, depending on the recommendation that comes to us from that Committee, so that information was put here to try to calm some of the fears that seem to indicate that this was a done deal. This issue will certainly come to Council again. Did you have anything you wanted to comment on?

Councilman Coté: I'm sitting here having a couple of thoughts. One, unless they change their mind, unless one of the three people who voted in favor of it changes their mind, we know what the answer is. In theory, maybe my theory is wrong. We could vote on it now and have it over with.

Seth Thompson: It's not noticed on our agenda in that manner.

Councilman Coté: That's true. Thank you. Or we could disband the committee, suspend the committee. I guess I'm more than a little upset that people who at a minimum should know the rules, disregarded them and created so much stir unnecessarily.

Seth Thompson: Council, I think from my perspective, when I saw this agenda item, I envisioned basically what your Charter suggests, which is you can adopt deadlines for recommendations. You can adopt a sunset date for your committee's. In thinking about some of the logistical issues that were raised, I don't know if it's worthwhile assigning some sort of liaison at Town Hall to facilitate the committee's. It sounds like there's been a breakdown of communication to a certain degree. Those were my thoughts when I saw the agenda item, that perhaps we need to have a due date, so to speak, for recommendations. I think the Council has expressly tasks in the past, but perhaps we make sure to do that with a level of specificity that people understand what the issues are that need to be discussed and addressed. Again, perhaps, some sort of coordinator or liaison on town staff, or maybe a council member, to facilitate the information element.

Councilman Coté: If recollection serves, the initial set up of the committee had a council person.

Mayor Jones: And I have attended ever since. I will say this about the Ad Hoc Committee it has a huge undertaking with this topic. There's an awful lot of information as stated in a Letter to the Editor that the approach is fiscal; it has to do with concerns of the amount of the police spending on our budget, so this committee has a huge task in front of it to look at that, to look at response times, the difference between having a municipal Police Department who is right there within your borders and very quickly to your door, as opposed to relying on a larger facility, such as the State. It needs to be noted that the Town of Milton cannot just simply turn to the colonel of the State Police and say would you like to take us over? That's not how it works. There's an awful lot of money involved in this kind of deal made between municipalities who have given up their Police Departments. Again, right now, you need to understand that our Police Department is protected by Charter; it is called for; it would require a Charter change; sending that up to the General Assembly without proper public participation and input would certainly reap Milton nothing, except looking really bad for not having done due diligence, so right now I wouldn't know what your issue is to vote on tonight when it

comes to this and I think that right now while the Police Ad Hoc Committee has someone as a member of Mayor and Council that goes with their committee, I think that's the best we can hope for right now. I will be in attendance. I'm sure the Captain will, next week.

Captain Cornwell: To address that again, the night of the vigil I contacted the Mayor, the Mayor came to the vigil, so no one was here to oversee what the Committee was doing and again, they acted on their own. The Police Department because of a Freedom of Information Act violation requests that they be suspended until proper procedures, or a new committee be picked, or revamped. That's the request of the Police Department at this time, because basically they broke the law.

Mayor Jones: Your request is noted. Thank you. Any other comments on this issue.

Councilman Garde: The item that's on our agenda is status of assigned tasks and future tasks. Now as I understand that, we tasked the Ad Hoc Committee and we did task them to undertake discussions of the agenda items that they had for their November 24th agenda, specifically a presentation concerning a modified approach to take home vehicles and additional information regarding the K-9 Program. Those were directed.

Mayor Jones: Yes, Sir.

Councilman Garde: The Charter specifically of the Police Ad Hoc Committee is to study and make recommendations that may serve to enhance public safety and the efficiency of the Police Department operations in the Town of Milton. My question and I am in favor of open discussions, transparency. Everybody has an opinion. They're entitled to their opinion and they're entitled to state it and they're entitled to state it in public. The question for consideration, in terms of assigning tasks, are we permitted to assign the task of deleting business item 6.c. from their next agenda? Specifically, 6 says Business – Discussion and Possible Vote on recommendations to Town Council on the following and c. says dissolution of the Milton Police Department.

Seth Thompson: The way that I would view it, I wouldn't say you control their agenda, but obviously you control the scope of their authority and their tasks, so I don't think the Council can say strike that item from the agenda, but of course the Council can say, this is what we need you to do. These are the limits of your authority. These are the items that we want recommendations related to.

Councilman Garde: Thank you, I suspected that was the answer and I'm not in favor of non-discussion or in silencing people. I think we should all have our opinions and be able to voice them. So I just wanted to make sure that we did not really have the quash capabilities.

Councilman Kost: Mayor Jones, I make a motion that the status and tasks of the Police Ad Hoc Committee be brought up at our next Council Meeting.

Councilwoman Parker-Selby: I second that motion.

Seth Thompson: When you say be brought up, are you talking about receiving the Committee's recommendations, or simply discussing it further on the Council level?

Councilman Kost: To discuss it further on the Council level.

Councilman Coté: Would that reference, or include, being more specific on what they're tasked to do, or creating basically a new charter for their continued work?

Councilman Kost: It seems to me that that's why we should have a Council Meeting to make that determination; whether there should be a new Committee or clarify what their

tasks are, so they stay on point.

Mayor Jones: Can we expect, if we're going to put that topic on the agenda by the 5th of January, that we might have a recommendation from that Committee? That's a really quick turnaround from the 22nd of December to the 5th of January; but if we put it on the agenda for discussion, we ought to have some material to be discussing at that point. That would be the progress on the two items that the Committee has been charged with and the newest topic. So could we expect something in the form of minutes, something having to do with the discussion of the 22nd's meeting. I'm looking at the recorder of the Ad Hoc Committee, because that's a tough turnaround with the holidays.

Roger Thomson: That discussion has gone on I think in the last three meetings regarding the take home car situation and I think that that itself should be completed by this time. That's what I think, but of course, the other Committee Members... I think one thing that we should know, as Committee Members, is how many people are on this Committee, because we've had several people drop out of this Committee, so it's kind of hard for us to determine, even if we have a quorum at our meeting and if we have eight people on the Committee, or nine people; we had a large number and much of them have dropped off, so I don't even know if four people was a quorum for this particular Committee Meeting, that night, so that would also be nice to know.

Mayor Jones: Okay, thank you. Okay, so we have a motion and a second to bring this back for the January 5th discussion. Any other discussion?

Councilman Garde: I'm not necessarily in favor of putting it on the agenda, unless we know what we want to discuss. If something happened, if they make a recommendation, or if they send us something, then we put it on the agenda. To put it on the agenda at this point, after these discussions, I don't think is appropriate because we are where we are; they haven't presented us with anything and to put it on the agenda means we... maybe it's the right thing to do to give people the advance notice that could be undertaken, but to decide that now.

Mayor Jones: How about this, Councilman Garde, by the 5th of January, under our regular meeting, we ought to have a committee report from the Ad Hoc Committee that would include... you'll be going over your minutes on the 22nd, you'll have minutes from the 24th, you'll have something to offer the Council by the 5th of January, as to your December meeting, as well, that will come in under committee reports. We'll be able to discuss it there. We will not be able to vote on anything there, right?

Seth Thompson: That's right. Basically, you're suggesting that the committee report will just be received. Unless it's noticed for a vote, there shouldn't be a vote. Although I understood the motion to be more focused on seeking a definition of the scope of the already assigned tasks, almost putting people on notice as to what they should be discussing.

Councilman Kost: I'd like to make a correction to what you just said. When I look at this, I'm not sure if these minutes are accurate, where it says the Ad Hoc Committee makes a recommendation to Council to consider disbanding the Police Department. They had a roll call vote. If this shows up in the minutes, they've made a recommendation. What I'm really saying is, in which case if that's their recommendation, the Ad Hoc Committee doesn't need to exist any longer.

Seth Thompson: That's up to Council. Obviously Council can sunset a committee. It

sounds like there are at least two tasks that Council was still expecting to receive recommendations on. Again, it's up to Council.

Councilman Kost: It seems to me though, if they recommend disbanding the police force, they've taken care of enhancing public safety; they've answered all the questions. They're done. You know? Either they make a recommendation or they don't. If they have, then we have to consider what they're recommending, or else create a new committee.

Seth Thompson: Maybe I'm reading the draft minutes too literally, but it's a recommendation to consider disbanding the Police Department. In other words, they're not necessarily recommending that the Police Department be disbanded. They're recommending the Council consider it. Those are two different things. Now again, maybe I'm taking their minutes too literally.

Councilman Kost: I used to work with a guy who called that _____.

Seth Thompson: That might...

Councilman Kost: I'm sorry. I'm a simple guy.

Seth Thompson: If I were the one that wrote it, or if I had been there, I think I'd be able to put it into context a little better. I'm just taking what's on the page.

Councilman Kost: To me then, we should have them come forward, present what they really mean, present final minutes with a recommendation and if they don't present something that we can actually chew on... but right now, what we're getting has nothing to do with what they were asked to do.

Mayor Jones: I'm going to be real clear on this motion for bringing it back. Councilman Kost, you would like that under an agenda item to discuss assignment of tasks.

Councilman Kost: I said status and tasks.

Mayor Jones: Okay. Of this particular committee?

Councilman Kost: I'm not aware of any others. I'm a newcomer.

Mayor Jones: Okay. See I can't help but think that's going to be covered under committee reports, but I'm not opposed to having [us] revisit this and see what has been submitted by that time.

Seth Thompson: I think the ability to have votes, again I'll go back to my prior example, of perhaps if the status isn't one of completion of the task, potentially the Council can vote to set a deadline, that type of thing. So there might be a reason for Council to have a vote noted, so that it can take action.

Mayor Jones: And we can do that under Old Business, discussion and possible vote on that agenda item? Is that acceptable?

Councilman Garde: Council, I just have one point I want to make certain of. If there is a recommendation and a discussion under simply the presentation of minutes, we are not allowed to vote on a recommendation, unless it's noted in the agenda beforehand.

Seth Thompson: Right, it has to note so that the average public citizen would know that there would be some sort of action taken. That's right.

Councilman Garde: I also think there's a great deal of due diligence that's required before I vote on this issue, including the cost for Delaware to take over, including a cost benefit analysis of some sort. This is an extremely serious undertaking. This is not just drop out and make a two line notice in a meeting minutes, because you're upset that the Police Department was over at a vigil with 60 people. It's an extremely serious

undertaking and one that I don't want to vote on without a good deal more due diligence on both pro's and con's. I have my own ideas, but it's based on my guts, it's not based on an analysis of facts or anything else, so I don't object to it's being on the agenda, but I will not be prepared to vote unless there's a great deal of data and information on which to base a vote when a vote is being asked for, rather than just how my gut's feel. Because if a recommendation is made by a serious committee, it should be given serious consideration and not just a gut feel. So that's my only thought. I have no objection to it's being put on the agenda, but be prepared for an abstention of voting without a great deal of data from the at least one member of the Council.

Mayor Jones: I think this topic also requires, whether or not it comes to us for a vote, requires a good deal of public input and would require the Council opening it up to special meetings, asking for a good deal of public input, based upon what has been presented to Council by this Committee.

Councilman Garde: Thank you. I agree.

Ginny Weeks, 119 Clifton Street: Thank you for letting me ask a question, neither pro nor con, just that if you're going to put on the agenda to discuss, I believe you call it the "status" Councilman Kost... what does that mean?

Councilman Kost: Status and tasks.

Ginny Weeks: The status. What is the status? The status of their recommendation, the status of whether the committee should exist, what do you mean by status? That's all. Thank you.

Councilman Kost: You're asking me.

Mayor Jones: It's clarified by saying the status of assigned tasks.

Ginny Weeks: Thank you. That's what I'm asking.

Councilman Kost: That's not what I meant.

Ginny Weeks: That's what I thought.

Mayor Jones: I apologize, then, please.

Councilman Kost: I'm simply looking at, they make a recommendation to consider to disband the Police Department. That means all the other tasks don't have to be completed, at all. If there's no Police Department, you don't have to worry about salaries, we don't have to worry about any of these other things. Their recommendation is, the way I read it, even with the word "consider", that's what they're saying. If that is really their recommendation, then their job is done, unless we want to create a new committee to reconsider all the other things we wanted them to do in the first place, or what they were tasked to do in the first place. That's how I'm reading this and the attorney may be entirely right. I don't know.

Mayor Jones: I think you cannot take these minutes literally. This recommendation has not been made to Council.

Councilman Coté: Based on the fact that that subject wasn't on the agenda, is in fact the recommendation legal? It's written down here.

Mayor Jones: It's also in a set of "draft" minutes, so it has not come to us in a formal proposal.

Seth Thompson: Right. The bottom line is the committee is taking remedial action in having that discussion properly noticed, so that should correct it and get it on the right track.

Mayor Jones: Hold on Mr. Welu. I just want to make sure that we all understand what Councilman Kost's motion is. Okay, because now you have me slightly confused.

Councilman Kost: Should I restate it?

Mayor Jones: I understand it to be that the Council will discuss, again, the status of the assigned tasks that were given to this committee and what about future tasks, or not?

Councilman Kost: I made the motion on the assumption that these minutes that we were given, these "draft" minutes, will eventually show up here as "the" minutes, not "draft" any longer, the real minutes. I'm not sure how you state that, but they voted and sooner or later they're going to send us something and this recommendation is going to be in those minutes and it's going to become part of official record or however you state this; in which case, I'm looking at that, if this is their actual, real final recommendation...

Mayor Jones: I don't. I don't see it as that.

Councilman Kost: I'm confused. You know, "draft" minutes, when they state this and it gets in the newspaper, I want to clarify what they actually mean. If this is what they really say, then we're going to have to deal with that subject.

Seth Thompson: It sounds Councilman Kost you had somewhat different intentions than the item that is currently listed on tonight's agenda. Tonight's agenda talks about the status of assigned tasks, so in other words, past tense, what tasks have previously been assigned to that committee; where are they in the process of formulating recommendations and then future tasks, meaning if the Council wanted to assign some other task to them to discuss and make a recommendation upon. So it sounds like you...

Councilman Kost: I'm assuming that they feel they've completed the tasks. If I'm entirely wrong, we should get something from them saying no, we're going to do other things. That's how I'm reading this. I'm a simple guy.

Seth Thompson: Based on what Mr. Thomson just said, it sounds like they've been formulating at least some recommendation on the take home cars, so...

Councilwoman Patterson: Mr. Thomson did just say that they are getting close to making a recommendation, with information that they've garnered about the take home car policy.

Mayor Jones: This is my interpretation. Even if these "draft" minutes become official minutes, this is not what I consider a recommendation by them for the Town's consideration to disbanding the Police Department. I believe that this would need to come to Council and given the make up of that committee, I believe would come with stronger recommendations and would support why they're making that recommendation to Council, instead of just a statement in a set of "draft" minutes.

Councilman Kost: I agree with that.

Mayor Jones: Okay. That's how I expect it would come to us. Mr. Welu wanted to say something too. Please make it brief.

Jim Welu: You always say that when I come up, please make it brief. I think there's a bigger question here that you really need to address and I think Mr. Thomson raised it. Who are the members of this committee? Have people resigned from the committee and what constitutes a majority of this current committee? I think our Mr. Thompson, attorney, is going to have to address those questions and I think we need to get a list of who are the member's of this committee? Have people resigned from the committee or do they just get thrown off the committee because they don't show up? So I think that's a

question that really needs to be looked at overall. Is that brief?

Mayor Jones: Thank you. And I have that on my list. Mrs. Weeks, did you want to make another comment.

Ginny Weeks: I just have a question. This is turning into a tempest in a teapot. The recommendation they made, I am not privileged to the minutes, they took a vote on. That vote is not a legal vote, because it was not on the agenda. Therefore, it's null and void. It doesn't matter. Before they can do anything, they have to make that recommendation again and re-vote it, before they can even send it on to you. They may not even do that. I think you're getting your tighty whitey's all messed up here, before it's time. Thank you.

Councilman Garde: When I asked the question about procedures, I believe Mrs. Weeks is correct procedurally. They did not... It was not on the agenda, they did take a vote, the vote is your term, null and void. I'm not sure what the correct legal term is, but since they did not have a right to vote, the vote should have no standing and I think they recognized that, which is why they put it on their agenda for their next meeting, so that they can take a vote and can present us with whatever that vote is. And until then, we just have the same thing everybody has, which is the newspapers filled with rumors.

Councilman Kost: I have a question. When will the Police Ad Hoc Committee have it's next meeting?

Mayor Jones: December the 22nd, next Monday night.

Councilman Kost: And we'd have to wait to see if they have actual minutes. It's on their agenda and if they act on it before we can even consider putting it on our agenda. Is that what I understand the sequence should be?

Seth Thompson: That's right. They need to take a formal noticed vote to make that recommendation and I think Mrs. Weeks' is right, they might not do that. That's certainly a possibility. I think operating from a realistic standpoint, they certainly could; given that that was the vote once. So that's kind of where I'm coming from, that could happen as soon as Monday, obviously.

Councilman Kost: In that case, I will withdraw my motion.

Seth Thompson: I think the other element to this, it's not just the Freedom of Information Act issue, it's what I would call an ultra-virus issue. In other words, did they exceed the scope of their authority? Do you want them to have that authority? That's one of those issues that really needs to be resolved. Now, when I see the agenda and it says future tasks, seemingly, that would be how that would be resolved. If the Council wants them to go through that process and it certainly should be a deliberative process, with a lot of public comment obviously and a lot of numbers, frankly; if Council doesn't want them to do that, then you might want to give them the guidance that don't spin your wheels on that.

Councilman Coté: I would like to see it on the agenda for the next meeting, or maybe the one after that, but start out with the next one, to basically have that discussion. What are the assigned tasks and what is the committee make up?

Seth Thompson: And to answer that question, if somebody submits a formal letter of resignation, obviously, that person is no longer on that committee, for purposes of calculating a quorum, and for voting, all of that. I don't think the town has anything in place where if a person misses a certain number of meetings, they're no longer on a

committee. There are certain, I think at the State level they do that, if I'm not mistaken, but basically a quorum would be 50% plus one and we had this discussion in the context of Council at one point, where if you have that 50% plus one, so you have that quorum, the voting requirement, unless it's spelled out differently seemingly in the tasks assigned to the committee by the Council, is going to be a majority of that quorum. So just adding numbers to it, if there are nine people, you have five that's a quorum, three would pass a motion; unless it's specified otherwise, but that's the default setting, if you will.

Mayor Jones: So we don't have a motion any longer to put this on for January. Is it time to reach out and request of this committee a status on the their assigned tasks, the two that we know of, that it's time to bring that recommendation or their findings to Council by January the 5th? They will meet again on the 22nd. We can do that within our scope of requests from that committee.

Seth Thompson: Looking at today's agenda, it's noticed for discussion and possible vote on status of assigned tasks, so if it's the Council's pleasure, you can request that they provide a status report of assigned tasks by the next Council Meeting.

Councilman Coté: I'm okay with that. I'm also okay with what I just said a few minutes ago, that we should put it on...

Seth Thompson: For purposes of reconstituting the committee?

Councilman Coté: Reconstituting and getting clear on the committee's charter, their assigned tasks, their overall assigned tasks. I would make a motion that we put them on the agenda for both reasons, to get the status of the assigned tasks and to discuss the composition of the committee and the future tasks.

Councilwoman Patterson: I'll second.

Mayor Jones: Mrs. Rogers?

Kristy Rogers: I was just going to add that if the committee does have these recommendations, or however Council should decide to move forward, we do get the report December 29th, so Council has that in time to prepare for discussions on the 5th.

Mayor Jones: Okay. So the motion on the table is to have this again on January 5th's agenda, with definitely a request for the status of the assigned tasks at hand and we'd like to ask Mrs. Rogers to notify this committee that that's what is... although there are members here, I think officially coming from the Town. Are we ready to vote on that motion? All those in favor say aye. Opposed. Motion carried. Thank you.

11. Executive Session:

- a.** Personnel matters in which the names and abilities of an individual employees are discussed;
- b.** Strategy sessions, including those involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation, when an open meeting would have an adverse effect on the bargaining or litigation position of the public body;
- c.** Discussion of the content of documents, excluded from the definition of "public record" in § 10002 of this title where such discussion may disclose the contents of such documents, specifically commercial or financial information obtained from a person which is of a privileged or confidential nature

Mayor Jones: Can I get a motion to go into Executive Session?

Councilwoman Patterson: I make a motion to go into Executive Session.

Councilwoman Parker-Selby: Second.

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

Councilwoman Parker-Selby: I make a motion to go into regular session.

Councilman Coté: Second.

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

12. Discussion and possible vote on Executive Session items

Mayor Jones: We are looking for a motion for the discussion in Executive Session.

Seth Thompson: So a motion to authorize the Solicitor to send a notice, as discussed.

Councilman Coté: So moved.

Councilman Garde: Second.

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

13. Adjournment

Mayor Jones: A motion to adjourn?

Councilwoman Parker-Selby: I move that we adjourn.

Councilman Coté: Second.

Mayor Jones: All those in favor say aye. Opposed. Motion is carried. Meeting adjourned at 8:47 p.m.