

**Milton Town Council**  
**Milton Library, 121 Union Street**  
**Monday, January 12, 2015 6:30pm**

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

**Please note: Some of the appellant's were not speaking into the microphone, so their appeals will not be transcribed literally.**

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

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| Councilman West  | Present |
| Councilman Garde | Present |
| Councilman Coté  | Present |
| Councilman Kost  | Present |
| Mayor Jones      | Present |

5. Additions or Corrections to the Agenda

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

Councilman West: Madame Mayor, I'd like to make a correction that where you've got seven and eight, combine them all into one, so that we can vote on each one individually as we're doing them, as we have in the past.

Councilman Kost: Second.

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

6. Agenda Approval

Mayor Jones: Now an approval of that Amended Agenda, please.

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

Councilman Garde: Second.

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

7. Property Tax Appeals – **COMBINED WITH 8. AND 8.a.**

8. Discussion and possible vote on the following:

- a. Property Tax Appeals

Mayor Jones: Mr. Thompson would you like to talk about this evening, what we're going to do?

Seth Thompson: Certainly. This is the time that's been noticed and set for the Council to sit as the Board of Appeals from your tax assessments. It's very important that we're able to record everything and hear you. The microphones aren't just for amplification, they're for recording, as well. So when your name is called if you could come to the microphone, identify yourself and your property and explain to the Council why you

think your assessment should be changed and if you have any witnesses, you're certainly entitled to call them and have them testify, but the process will be that the applicant will present his/her evidence. The Council will consider it. The Council will ask any questions it may have of the Town Assessor. If that prompts any response from you, then certainly you can give your information to the Council and they'll decide each appeal, one at a time. So if you have any questions, by all means.

Unidentified Speaker: We have one person that is going to speak for the three of us.

Seth Thompson: Is it all the same issue?

Unidentified Speaker: Yes.

Seth Thompson: That's fine. That works. We'll just make sure the record reflects that really the issue presented in one application is the same for all three.

Unidentified Speaker: Okay.

Seth Thompson: The main goal is to make it clear so that if somebody's reading a transcript, they understand what the issue was, what the evidence was and how it was decided.

Mayor Jones: Council we're going to start. The package in front of you James M. and Sherry L. Murphy, 211 Heritage Boulevard. The Murphy's are here?

Sherry Murphy, 211 Heritage Boulevard, Milton, Delaware: The reason that I'm here today is we received our property assessment. This is our first year being in Milton, so this is a new process for us. I have some information that I would like to pass around so you can see what I'm talking about. I just made some copies.

Seth Thompson: For the record, we have a letter from Kristy Rogers dated January 7, 2015 to Sherry Murphy and Ms. Murphy I take it these are your hand...

Sherry Murphy: Yes, those are my hand scratching notes. My husband Jim and I live in Heritage Creek section of Milton and we understand that all of the properties, even though they're not the same size in Heritage Creek, are assessed at the same property value. I have some examples in front of you of Phase 2A, which is the 100 section of Heritage Boulevard; we live in the 200 section of Heritage Boulevard and just as an example, one of the homes at 109 Heritage Boulevard is on a 60X100' lot, which is 6,000 square feet. Our house is on a 52X100' lot, so that's 5,200 square feet, but we're assessed at the same property value and I just don't understand why that is.

Dave Hickey: Well, when the reassessment was done, we had some differing values out there, but then two years ago we had an appeal and we changed the values per the instructions of Council, to all the lots in there at \$80,000 to match up with the same values that were in Cannery Village. So that's why we have \$80,000 on those lots. That's consistent with a lot of the sales that we had in the town at that time. You have to understand, the reassessment was done in 2009, so the values are back to 2009; not today's value, it's 2009 values.

Sherry Murphy: Okay, because I'm questioning the other property value in our... We just moved into our home in February, 2014.

Dave Hickey: Right. As they create the lots, we have to make the land value consistent and your 52X100' lot offers the same utility, as far as it's economic use as a 60X100' lot and we'd have the same argument if we put the two values on yours, like the larger lot would say it's not fair that I'm being charged extra, if I have more money on mine, because I've got the same use. When you're dealing in lots, you don't buy a lot... if you

went out to buy that lot from a developer, they're not going to say I'm going to charge you price X for this lot, because it's 3' wider than this one. A lot is a lot, is a lot, is a lot.  
Sherry Murphy: Okay. I don't know that that's necessarily the case in that if I wanted to make improvements on my lot, someone that has 800 more square feet of lot has more ability to make an improvement than I would on my 5,200 square foot lot.

Dave Hickey: You get into the restrictions of the side yard width and front setbacks and back setbacks and that sort of thing and it's true, that you might have a smidgen less space, but how much extra are you going to be able to do with that tiny little bit of space?

Sherry Murphy: I don't know. Someone's added a courtyard and a big like fireplace and we could never do that on the side of our house because we only have 3' and 3', so that's what I'm saying. It's really not equitable to assess them all at the same... I understand the first phase was assessed and it was agreed upon that \$80,000 was fine, but their lots are somewhat similar in size. Our lots in Phase 2 are not similar in size, to the Phase 1. That's why I'm saying that these comparisons... you know, someone with the same house as ours at 114 Heritage Boulevard has 5,800 square feet. The one at 109 Heritage Boulevard has 6,000 square feet and ours has 5,200 square feet, which restricts me a little bit more than those that live in those homes. So I can't see how it's equitable to say, we can all do the same things with our same lots, when we really couldn't.

Seth Thompson: Mrs. Murphy, I'm kind of a visual person so did you say that you have 3' as a side yard setback on each side, basically?

Sherry Murphy: Basically, yeah.

Seth Thompson: And the larger lots would have...

Sherry Murphy: Well they would have... well because they're all basically, I'm comparing 100 to kind of a 100, they more or less have like the 6,000 square foot lot, that's at 800 square foot difference from my lot, so they have more side. We can almost literally stand between our houses and go like this.

Seth Thompson: So they would have seemingly 7' on each side? Or did they build a larger house in that envelope? Do you know?

Sherry Murphy: The house that's next to ours is larger, but it's not... I guess it would be wider, as well. But it's just the idea that if you look at the homes on Heritage Boulevard, they have a nice expanse between them, where we're right next to each other. So that's why I'm questioning you. If I had 800 more square feet, sure we could do a lot more with our backyard. I'm not complaining about the little yard. I love it. But it's just the idea of I don't know how it's equitable. If I was to go buy a lot in private, I think I would be charged more for a larger lot than a smaller lot.

Seth Thompson: I think I'm trying to visualize. Isn't the additional size basically on the sides? I think you said it was...

Sherry Murphy: They're all basically 100' deep. Some of them are a little larger than 100', but basically the lots are 100' deep, so it's more to the sides that we have our space. So that's why I'm just asking the questions.

Seth Thompson: Ms. Murphy, I note on your appeal you do mention that there's a garage that's assessed as finished.

Sherry Murphy: I don't know what finished means. Does that just mean sheet rocked and painted; is that what it means? I just wasn't clear on that.

Seth Thompson: We can focus that to the assessor. I just wanted to make sure we cover it all.

Dave Hickey: I think you questioned the definition, garage brick or F and you didn't know what the F meant. That's just brick or frame.

Sherry Murphy: Brick or frame. Okay, so it doesn't mean...

Dave Hickey: It's a standard garage. That's all it was.

Sherry Murphy: Alright, because I couldn't figure out what...

Dave Hickey: Every garage in there is valued at the same square footage.

Sherry Murphy: Alright, that's fine.

Dave Hickey: The side yard restrictions is what you're talking about. The city's building codes allow only so much. They require that you setback from your side yard, so much...

Sherry Murphy: Oh I understand that.

Dave Hickey: And you have to understand that the developer is going to squeeze as much on there as he possibly can, so it's not like you're going to build an addition on the side of your house.

Sherry Murphy: No we couldn't. There would be no way. We would be right on the property line. We only have 3'.

Dave Hickey: And you couldn't do that without getting a variance.

Sherry Murphy: But somebody else could put in a big patio and a big fireplace and they still have space, so but not in our section, in the front section where the reassessments happened they were all assessed at \$80,000.

Dave Hickey: That section, when it was developed, it seemed like the GIS layout of the lots was what we used; which was what the County had those lots sized so if the plat size is different, I think the best way to proceed is to make sure that we're fair and equitable in how we apply the value to all the properties. You're basically saying if a lot was \$10 a square foot, a 60X100' lot would be \$60,000 and yours would be \$5,200. There's an \$8,000 difference. I don't think there is. I don't think you could prove that in the market. Bottom line, that's what you're really being asked to do here is to give us the economic proof that shows that the value is not that and all we're saying is, based on the sales that occurred when we did the reassessment, we thought that those lots were worth more, but based on some appeals that happened a couple of years ago, it was decided that the lots in Heritage Creek would be valued at \$80,000, which every one of them was, regardless of size.

Sherry Murphy: Regardless of size.

Dave Hickey: So they're all equitably assessed that way, so you're all equal.

Sherry Murphy: How would you feel about that, though, if it was your property?

David Hickey: Well, if you had... you're talking about very minimal about marginal differences. If you go into Wagamon's West Shores they sell those lots up there for say \$120,000 and they might vary 2,000 or 3,000 square foot per lot; but they get the same money, because you're buying a lot in Wagamon's West Shores. That's what we're saying here. You're buying a lot in Heritage Creek, just like you would be buying a lot in Cannery Village, the values are the same. I'm just saying...

Sherry Murphy: I just can't grasp the concept. That's all. I'm just having a hard time.

Mayor Jones: Mrs. Murphy, if I may, on your appeal, what's missing is your estimate of

value, which is what tells Council, what are you looking for on this appeal?

Sherry Murphy: That's just it. I really don't know. I was looking for something less in an assessment because my lot size is less than what the others are paying in the front of Heritage Creek. I don't know what that would be.

David Hickey: Mrs. Murphy, if you don't mind, according to what you put down here you paid \$310,000 for this property?

Sherry Murphy: Yes, we did.

David Hickey: And what is the assessment?

Sherry Murphy: It's \$289,000, but I'm questioning the property value. The property value assessment. I'm not questioning the other part of the assessment.

David Hickey: When we're doing an assessment, we're trying to look at the bottom line. In other words, you could not go and sell your lot to somebody else and keep your house.

Sherry Murphy: No, that's true.

David Hickey: And you couldn't sell your house and keep the lot. It's an economic unit and you purchased it for \$310,000 and we got \$290,000 on it, \$20,000 less.

Sherry Murphy: Well that was because of the inside improvements, but the thing is that I don't know, I've never experienced where your property value was assessed the exact same as your neighbor's, even though your lot was larger or smaller. I never experienced that in anywhere we've lived, so that is why this is definitely a new experience and I don't understand. We have less than an eighth of an acre.

David Hickey: Right.

Sherry Murphy: By 245 square feet.

David Hickey: It was decided based on past appeals that we were going to use \$80,000 on all the lots in Heritage Creek, which is what we've done and your assessment is still \$20,000 less than what you paid for it two years ago, so I don't see where you're...

Sherry Murphy: Okay, that's fine.

Councilman Garde: I'm somewhat empathetic towards your appeal, but assessments they are not done by size of lots. I would appreciate if the assessor... I wasn't on Council last year and I heard all of many appeals based on size of lot and I heard the professional assessor's explaining to Town Council that lot assessments are not really a direct function of lot size; that they're valued together with all of the other lots and it actually is a question of the theory, if you will, and/or art and science combined of assessing; that's what this is all about. You have a small lot, someone else has a slightly larger lot. In the past, it was explained to all the citizen's who attended, that assessments are not based on an acreage basis; they're based on a value of the lot that is part of the overall assessment and I'm sorry if that doesn't... it probably doesn't answer your question, but I would like to get the professionals to amplify where I was coming from so they can make you more comfortable.

Councilman Kost: There is one other part of value to your lot, which you don't really see. Part of what you spent money on when you bought your home and your lot, is for future open space. You're paying for that and that's built into the values.

Seth Thompson: A good way to picture that is if your neighborhood... if Heritage Creek existed, but for some reason it didn't have the open space and didn't have the amenities, then seemingly the lot value would be less, even if physically the lot was the exact

same. I think that's where Councilman Kost was going.

Councilman Kost: Well, if they didn't provide the open space, all the lots would be 10,000 square feet; you live on your open space, as opposed to... I live in Cannery Village and we have ponds and a park and all that sort of thing and my lot's 3,000 square feet and it's assessed at \$80,000; but that's part of it out there when I sell my house, that's part of what I'm selling. The same with our community building.

Eventually, hopefully, if I sell, that's going to accrue value to me.

Seth Thompson: I think if Mr. Hickey could kind of weigh in a little bit, too, that a buildable lot is often a certain value, so as long as the lot is buildable, it should be about the same as the other buildable lots in that neighborhood. If something's not buildable, obviously it's going to be worth less, because that person then has to go get a variance, that type of thing. If a lot is large enough that it could be sub-divided into two buildable lots, then seemingly that land is going to be more valuable, because you can have two different homes on it. I think that's where Councilman Garde was going and Mr. Hickey if you could expand on that, so that I think it might benefit everybody to understand the notion of a buildable lot, as having a certain dollar amount.

David Hickey: It's like when you're looking at a property that's sold, when you're doing an appraisal, you can say so much of the portion of the sales prices was the value of the improvement and the residue is the land, so because Milton is a town that there's not that many "pure land sales", when we did the reassessment the only way we could use to determine the land value in a lot of cases, was to take an improved sales price, deduct from the sales price the value of the improvements and the residue is the value of the land and as I said, you paid \$310,000, so we're still \$20,000 under what you purchased your property for. By that standard, your assessment is quite in line and it's line with every other house in Heritage Creek, but if you're thinking about buying land in terms of acreage, if somebody's going out to buy five acres and they're going to pay \$20,000 an acre, that's \$100,000. If somebody had six acres it would be \$120,000. If somebody had four acres, it would be \$80,000, but at some point the marginal excess value diminishes. In other words, you added a little bit of extra value, it's not going to necessarily be at same proportional value as the base. In residential lots, it's like the gentleman said, you can build on this lot, so it has economic worth and based on what those properties are being bought and sold for, we had to come up with a uniform value to apply to all the properties...

Sherry Murphy: To all the properties and you were only dealing with Phase 1 then.

David Hickey: Well now we're dealing with Phase 2 also.

Sherry Murphy: Right, now we're at Phase 2, but Phase 1's property values are the same as ours, even though our lots are smaller; so that's just the point that I'm trying to make. Our lots are not as large.

David Hickey: I understand that. Just like when we drove in there today, at this time, when you're driving down Heritage Boulevard and looking at the houses in the first section and then you start looking at the houses in the second section, I have to admit, I would rather be in the second section because there seems to be a little more of a feeling of expansion, than there is where they are jammed up in the first section.

Sherry Murphy: No, no, you're confusing the two phases.

Mayor Jones: I think it's the opposite.

Sherry Murphy: The first phase is the one that has the property between the houses. The second phase is where they're jammed together and that's where I live.

David Hickey: Right, but there's not as many houses down there. That's all I'm saying. I mean, you're not going to get the feeling... If one end of the block is built and then somebody builds on the other end of the block, you're not going to realize that your next lot is right on top of each other.

Sherry Murphy: Well, we realize that because we are there.

David Hickey: And you paid \$20,000 more than the assessment for the property, knowing that the lot was smaller. We've got \$290,000 on your assessment. You paid \$310,000, that's \$20,000 more.

Sherry Murphy: That's because we made all the internal improvements; they're not outside of the house, those were all inside the house. I wasn't debating the assessment of the house, it was about the property value, that's all and I was just trying to see and I still can't and I probably won't, but how the people in the front section have more property and we have less and we pay the same and that's all I have to say. I don't have anything else to argue with. That's it.

Seth Thompson: Mr. Hickey, if somebody did make an improvement in that extra 4' on one of the sides, I take it you would then go out and reassess that property, based on that new improvement.

David Hickey: Correct. We just did some today, there was one that had a patio built in, but that was in the front, what I call the front section.

Sherry Murphy: Right, it was in the front section.

David Hickey: And it was on one of the townhouses.

Sherry Murphy: Oh no, no, no. I was talking about the other house. Okay. Oh, one of the townhouses, no I don't know.

Seth Thompson: That will then go into the improvement value, as opposed to the land value.

Sherry Murphy: Right. Land value.

David Hickey: That goes in the improvement value, right.

Sherry Murphy: And I understand.

Seth Thompson: If you could, again, this might help some other people; so Mrs. Murphy purchased her house in the beginning of 2014; that was about five years after the assessment; could you compare the market from when you were doing the assessment to early 2014? I recognize that... it's a question of whether we're comparing apples to apples.

David Hickey: Well, it appears that property values are starting to creep back up a little bit. At one point we were way over, but property values are coming back, so when you're dealing with assessments, you have to maintain a level base. In other words, the way we were valuing those properties in Heritage Creek in 2008, we have to apply that same standard to all the new construction so that your assessment is equalized with everybody else. It's like what the gentleman said, the assessment is an assessment of your taxes, not necessarily purely representative of the true value of your property.

Sherry Murphy: Oh right. I realize that.

Mayor Jones: I don't expect that this will help a lot, but this is my theory on how Heritage Creek is priced as it is per the land value; just like Cannery Village. You're

inside of a neighborhood, inside of a municipality and in order to make a level playing field for all owner's, the value of their land, which is in my mind, also connected with your amenities and your sidewalks and things that are provided for Heritage Creek alone. The land value, regardless of your phase, allowed an easier understanding of each property being that base value. We went through and changed a lot two years ago, which is why we put them in compliance and closer alliance with Cannery Village. So I'm not sure that that helps, but part of that is because you're in a cloistered neighborhood, where each lot, regardless of the improvement you make to your structure, will provide the same amenities to each homeowner, or at time of resale, will supply your buyer's with the same amenities as anybody else in the neighborhood, regardless of the size of their property. Is there any conversation from Council? Any other questions for Mrs. Murphy? Mr. Murphy is here. Did you have anything to add? No? Okay.

Seth Thompson: Does Council have any questions for Mr. Hickey?

Councilman Coté: Well, just, maybe a little bit of a clarification. When you do the assessments, you don't do them by square foot. You do them by building lots and if a building lot is a quarter of an acre, or less, it can be one... and depending on where it is as well, but that's one item. If it's a quarter to a half an acre, that's a different value, but it's not by square foot. It's by basically the overall size and where it's located. All the Cannery Village locations are "the same" and all the Wagamon's West Shores locations are the same and all the Heritage Creek locations are all the same...

David Hickey: There's always minor variations from property A to property B, but we're trying to find a uniform value to put on the land.

Councilman Coté: Yes, we're not talking about the improvements, we're just talking about the land; so it's basically based on you don't have a lot of break points in there.

David Hickey: Right, because you're not really talking about huge swings in lot sizes. Obviously, if there was a lot that was way over the normal for that neighborhood, you would take a look at that.

Councilman Coté: If somebody could get two lots and build their house on two lots, that would be different.

David Hickey: Right, they would have two lots and they would put a house right smack in the middle so that, in essence, they're way with one lot, yeah, we'd take that into consideration; but that's not the case here.

Councilman Garde: I have another question for you. When you did the whole town reassessment in 2009, was Phase 2 of Heritage Creek included?

David Hickey: It was just raw land at that point and they came along and put those new lots in and we had to come up with a value, consistent with everything we did on everything else.

Councilman Garde: And when you made assessments in Phase 2, was that basically as the deal was closed; is that when the assessments got done?

David Hickey: No, when they put those lots to record, we had to appraise them at that time.

Councilman Garde: Okay. So Phase 2 had been appraised at the same time as Phase 1 from a lot standpoint? Is that what I'm hearing?

David Hickey: We had to make our assessments comparable to what had been done previously.

Councilman Garde: The reason I asked this is I heard the applicant say that in her mind there may be a difference between Phase 1 and Phase 2; if the assessment of Phase 2 was done contemporaneously with the lot assessment in Phase 1, I think that may diffuse that complication; if it's the case.

David Hickey: From an appraisal standpoint, from an assessment standpoint, it's contemporaneous; it was done on the same basis. It's not like we came along two years later, or three years later and said now we're going to have different values on these.

Councilman Garde: Which is another reason, if you'll forgive me, why comparing a price that the applicant paid in 2014, is actually not relevant to this discussion. Everything goes back to 2009. That's my opinion. Because we all bought at a different time and the market value at the time of buying was whatever it was; they got the most they thought they could get for it. You paid the least you thought you could pay for it. You both agreed and you signed a document. But the art of assessing, is to take all that land and improvement back to 2009, so it's on the same basis as everyone else, which is why I say what you paid for it, in my mind, is somewhat irrelevant to this discussion.

Sherry Murphy: I didn't think it was either.

Councilman Garde: In my mind, it's not because the value has to be taken back to the same start place as everyone else in the town, regardless of when they bought the property and that cannot be a science. That's why we pay professionals and that's why they have licenses and that's why they are the professional assessor's. It's just one of the thoughts I had. Am I reasonably close to correct?

David Hickey: Right. When we did the reassessment, we developed what we call a set of rates to be applied uniformly, based on style. Those same rates are in effect today, so that as new construction is added, it's valued relative to the same basis as the stuff that was already there; the only difference is, if something was 10 years old when we did it before, we might have had some depreciation, but now there would be no depreciation because it's brand new. Just as every brand new property that was picked up during the reassessment had no depreciation on it, at that time.

Councilman Garde: Thank you.

Seth Thompson: And Mr. Hickey, just for the record, those rates were developed based on sales in 2008 and 2009?

David Hickey: Correct and that's why I said that the values are probably coming back now, than they were. At one point, they were way below.

Mayor Jones: Council?

Seth Thompson: Mrs. Murphy nothing else? I think you motioned.

Sherry Murphy: I don't think so. I'm just still... I can't think of anything else. Well, thank you for your time.

Councilman Kost: I have a question for our attorney. Considering that there was no actual appeal of values, do we have to take any action at all?

Seth Thompson: Well, I think you should certainly. Now, I recognize your point. Normally with a property appeal, an assessment appeal, there's basically a different calculation that leads to a different number and at that point, the Council's in a position of hearing the appellant's calculation and then Mr. Hickey, the Town Assessor's calculation and determining who they feel is making the appropriate calculation. It is a little difficult without the number, because without the number there's also really not a

calculation; however, I think it is important that the Council vote that obviously Mrs. Murphy took the time and came tonight and wanted to raise the issue. It sounds like she received her answer on the garage. I don't know if she's happy with the answer on the different property size, but...

Sherry Murphy: I just don't know if I still understand it, because the houses in Phase 1, they have more property and they'll sell at a higher price than my little property would; because my little confined space, so our houses are much closer together, so you get more of the feeling of being pushed together. Next to me is going to be built the triplexes and I knew that, when we built; but it's just that I just still can't see how my property value is the same as theirs, when they have much more to offer. Same house. Bigger property. That's all I have to say. I'm not going to belabor the point. I'm done.

Seth Thompson: If it's any consolation, the Town Charter requires the Town to go through a general reassessment every 10 years, so this isn't the final chapter, so to speak. When those triplexes are built, if they affect your property value, that will show up during the sales between now and that reassessment.

Sherry Murphy: Okay, thank you.

Councilman Kost: Mayor Jones, I make a motion that the appeal by Mr. and Mrs. Murphy be rejected.

Councilman West: I'll second that.

Mayor Jones: Is there any further discussion?

Seth Thompson: And if Council could explain their rationale in their voting. We'll need to do a roll call vote.

Councilman Kost: Is that part of discussion?

Mayor Jones: No, not yet. Is there any further discussion. Okay, a roll call vote:

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| Councilman West  | I vote no, because we went through this a couple of years ago and it was decided that we would go with Mr. Hickey's assessment of the \$80,000 across the board in Heritage Creek.      |
| Councilman Garde | Also votes to disapprove this appeal on the same basis as Councilman West's discussion.   |
| Councilman Coté  | Agree to reject the appeal based on the discussions of the overall lot sizes and minimal differences are not going to make a significant difference.                                    |
| Councilman Kost  | I reject the appeal because the overall \$80,000 per lot for every lot, irregardless of the size, is the Town standard.   |
| Mayor Jones      | I vote to deny the appeal based upon the same information which was calculated by the Council two years ago equalizing the value of the property in Heritage Creek at \$80,000 per lot. |

Mayor Jones: Motion carried.

Mayor Jones: You have in front of you your next appeal. It is Paul and Lillian Swider of

214 Heritage Boulevard. If it gets to be too long, you're certainly welcome to sit down with that microphone.

Paul Swider, 214 Heritage Boulevard: Ours, basically, is the same appeal that you just heard, so we don't really need to go over everything again, but I am a little confused. I guess my first question is, why do you have to have equalization on the lot values? Why does everything have to be \$80,000? Is that just some norm that is done throughout the town? Are we equalized in a community, when the community is being built? My reason is that when you did do the equalization of Phase 2, where we live; by the way, we live directly across the street from Sherry and Jim; we live in Phase 2. Phase 2, I assume, wasn't even built yet. I think these are the lots that you had to basically go by what was in the front. I know when we came to look at our houses in Heritage Creek, we were misinformed and we were told that the values were \$80,000 lots and we were looking at the Phase 1 lots, assuming that everything was going to be the same in Phase 2. There was only maybe one house being built when we were there. So you certainly can not tell anything by taking a look. We asked him and he answered yes, this is really not your issue, but in the sales process we had asked what's the size of the lot and we were never given that information. As a matter of fact, we didn't get the proper information until the closing, when we got our survey and we found out that we had 5' on either side of our house to our property line. We originally were told that the ones in the front had 6-8' and there was about 12' in between each house. We were expecting that. When we moved in, the house had been built on the corner and literally you can reach out from the side of our property line and reach over and touch the side of the house, which happens to be their bedroom, on the side of their house. So, in my mind, that diminishes the value of my lot. When I got to resell my house someday and I'd like it not to be too soon, but if I go to resell my house, the value of my house is going to be determined by the size of that lot, compared to what people will be seeing for maybe a comparable house in the front. We have no lot size. We have nothing that we can do to improve our home, at all, anywhere. Now I have a different model than Sherry, but it sits on almost the entire footprint of that lot. Now, the value of my house... what I paid for my house is I think more than what Sherry paid, so I understand how that gets in there, so I guess again, it comes down to the value of the lot and so my question is, why is it necessary to value all lots the same? Why does there have to be equalization of all lots?

Lillian Swider: Before you answer that question, I just want to clarify a couple of sort of historical things. We did very specifically ask Schell Brothers, were the lots the same and we were told that the lot map were renderings. They were all the same. Later on when we said our lot is very small, we were told that the lots in Phase 2A, which would be the beginning part... is that right, Sherry, 2A? 2A had common area in between the houses. I don't know if that's true, but that again, misrepresentation and misinformation again and again and again; so it's a real sore point for us, this lot size thing. The second thing is that because our lots are right butted up against each other, 5' and then 5' and there will be a triplex, we have the Delmarva box that was moved to be within 2' of our corner of our house. You can hear that thing humming in the guest bedroom and again, there's nowhere else we can put it. It's stuck there.

Paul Swider: If you look in the front, they're in between both property lines, but there is

4-5' down on either side of those \_\_\_\_\_ homes.

Lillian Swider: What I'd like to request is that you come back out and take a look at those front lots again and take a look at our lots, because if Schell Brothers told you all the lots were the same, that is not true.

Paul Swider: We were actually given a survey when we first found it, when we looked, it shows 6' as our property line. When the actual survey came out, it's 5'.

Lillian Swider: Yes and on our neighbor's, because they're a corner property and all of the corners have more property than anybody else, so why they should be the same as us, I don't understand either, but they were able to build out 3' in their bedroom and build a nice master bath suite. So now our patio, we really can't do much with it, because we're sitting right under their bedroom window. So those are the kinds of problems that we've had in the community, so when you say... we still don't have a clubhouse. When you talk about amenities, we don't have any. So we're paying for things we don't have.

Mayor Jones: Mr. Hickey, what is the lot size on 214 Heritage Boulevard?

David Hickey: Same as the other one 52 X 100'.

Lillian Swider: But the ones in the front, the corner lots, are 53X105' and 53X75'; I guess it narrows or whatever changes in one direction vs. the other. Another one is 53X100' and 53X70', that's another corner property. So you know they have a lot of nice side yard; they have a lot of nice backyard; we've got 5' on either side.

Seth Thompson: Mr. Hickey, if you could address the corner lot issue. In the assessment process, did you factor corner lots in differently?

David Hickey: I've been doing this for over 40 years and that question always comes up. Some people say a corner lot should be worth more than an interior lot. Then there are some people that say I don't want to have a corner lot, because I have to have two sides of my property exposed to the street. So I've never been able to find a clear determination of it having excess value. To me, from doing years of appraisals for mortgages, you're going to make an appraisal based on the structures that are there in comparison to the other properties that are there. If your style house is selling in that neighborhood with a similar lot sizes and even though there might be minor differences, if they're selling for \$360,000, like what you paid for it, then that's what your property is going to be valued as. Nobody's going to say well your appraisal is less because your lot is a little bit smaller. There could be equal sales in that sub-division of similarly sized lots and that should be the basis of your evaluation.

Lillian Swider: How do you factor in when a builder or a developer puts a premium on a lot, in the case of by where we are, there's one house that will not have a duplex or a triplex next to it and that lot has a premium. As a result, anybody that buys that lot, when they see the front lots, which are a lot bigger than any other lot, they have pond views; they'll take one of those lots, rather than this other lot with the premium.

David Hickey: And over time that works itself out in the market, from the sale and resale of these properties. Right now, in that phase of Heritage Creek, basically it's mud lots and a house here, a space space, a house here. You don't get the real feel of them being jammed up together like you do in the front section; even though you're saying those lots are a little bit wider. To me they're...

Lillian Swider: Well, we're in the part where there are empty lots and mud and eight

months of having a dumpster out my kitchen window.

David Hickey: I understand that.

Paul Swider: I don't agree with you saying that the people in the front are jammed in. That's our point. They're not.

Lillian Swider: They're not jammed in.

Paul Swider: They're not jammed in and again, maybe people should come by and take a look.

David Hickey: When we first assessed out there, that front phase of Heritage Creek was like y'all. There was one house here, house there. You had a much more expansive feel. That's why we had \$120,000 on those lots when we first did the assessment out there, but as time has gone by and they've built more and more houses on top of each other, I agree that the value should be more akin to Cannery Village than it is to Wagamon's West Shores, where you have much bigger yards. Back when the reassessment was done in 2008, there were so few houses at there in Heritage Creek, that you had the feeling that this is going to be a lot nicer area, than the ones that are jammed in so tight like they are in Cannery Village. But over time they've built those houses closer and closer together and filled in the space, so I can see the point, but the bottom line is the value has to be comparable to what those units are being bought and sold for at the time, which is how we value them and we made those values consistent with the land values we used in Cannery Village. There were lots of \$80,000 or \$100,000 lots even in the old section of town here; where you have little tiny lots out here on Union Street and whatever, so the \$80,000 wasn't all that unreasonable, especially when you took the actual sale of the property and deducted the value of the improvements and you get the land residual, the \$80,000 seemed to work really well.

Paul Swider: I just don't think we get the value for our lots, as five, as the other lots do. I know you're calling them minor differences, but 2 or 3' makes a lot of difference on the side of your home if you're going to make an improvement for instance on the patio side. Maybe the one you saw did a patio, where you could build out from the patio area and still be on your property line and put in a nice fireplace, stone wall, maybe some plantings. We have no feet. I have 5', but not even to go out, so I can't do anything. The value to me is much less.

David Hickey: Right, I understand and if we were to do another assessment, where we assessed all those properties and we changed the values to reflect a front footage basis, if you might say, then you would say okay what are the values of the improvements and how much would that land, we're going to take that off the sales price and you would end up with a higher value on the improvement portion, so your bottom line is probably not going to be any different and all we're trying to do is keep it consistent as far as how the land was applied. I've never seen people buy residential lots in a sub-division like Heritage Creek on a front foot basis.

Paul Swider: I know we're not making any different arguments than what you heard before and I'm sure the results are going to be the same, but I did want you to at least hear our point-of-view on what we think, when we bought our house. To be honest with you we're happy with our home, we're happy to be in Milton, we're happy to be living in Heritage Creek. I am really unhappy about the lot size. We feel it was deceptive. There's nothing you can do anything about, but it was deceptive sales that went on there and

until the hole is dug and I actually when the hole is dug, how come this looks like it's so close and I was told that's deceptive, because the house sits inside the hole and there will be more space than what it looks like.

Lillian Swider: It's like an optical illusion.

Paul Swider: That really didn't happen, obviously. That is why it's a sore spot, so when the appraisals come out we think maybe there's something...

Lillian Swider: And I would hope that you would be somewhat concerned that it was obvious that the Murphy's didn't understand the rationale. I don't understand it. We could stay here for the rest of the week. It sounds like circular logic to me. It doesn't make any sense and I'm not real satisfied with that.

Mayor Jones: Mrs. Swider, I'd like to say that you and your husband make a good argument. I think the Murphy's made a very good argument. It is thought provoking. I have made a couple of notes of things that in the future, will be well worth looking into. Right now we'll need to hear your appeal on the same way that we looked at the Murphy's. Does Council have any questions for the Swider's or for Mr. Hickey on this case?

Seth Thompson: The one item I wanted to know, so Mr. Hickey, when you did the assessment, you didn't rely on Schell Brothers to tell you the lot sizes, correct?

David Hickey: No.

Seth Thompson: I take it you used GIS, which is based on the approved sub-division plat. Is that correct?

David Hickey: That's right. That's all we had to go by.

Seth Thompson: Okay and there was some question in terms of common area between houses. Well, hopefully, the Town hasn't approved that; but if that were to occur, let's say you had 20' between two houses, but really it was 10' of common area and 5' of setback on each side, how would that factor into your assessment?

David Hickey: We knew where the common areas were, so they weren't \_\_\_\_\_ value, because like you said, the value of all that common area is included in the worth of the properties, which is as the gentleman said, like Cannery Village, you buy in there, you're getting your portion of the common area, too. The bottom line is if a property sells for \$300,000, there's going to be so much value to the improvements and so much value to the land and you're dealing in a mass assessment, you've got to treat everybody equally as far as the types of property and the worth. It's just like the Schell Brothers. Salesman A might get say \$300,000 for this house, Salesman B sells the same house for \$320,000. Does that mean both of them were worth \$320,000? No. It doesn't mean both of them are worth only \$300,000. No, so we have to try to get a happy medium and go in the middle. That's why when you're dealing in assessments, you're trying to be as uniform in your application as you can, based on the sales as they are made available to you.

Paul Swider: Does that indicate that when you do another assessment, overall, that then the property assessments will be different for different properties within the community; so you won't have what you have right now, or you would have equalization?

David Hickey: Based on the totality of the concerns that have been addressed over the years in Heritage Creek, or whatever, I think I would go to a more standard based on the front footer, per square foot basis, so then you're only paying for the lot size that you have, so to speak, but then you're going to hear just as many complaints on the other

side of that. That yes, I have a slightly larger lot, but I've got no more use of my lot than the guy next door. You can't win sometimes in this business.

Paul Swider: I'm just asking if you raise other peoples taxes, don't mention that we were here.

David Hickey: Nothing's going to change until another reassessment.

Mayor Jones: Thank you very much. Council, any other questions for Mr. Hickey?

Councilman Garde: I have a comment for the record, since we made it on the last appeal, which is there was no estimated value submitted by the appellant.

Lorraine Swider: We didn't know how to estimate the value.

Councilman Garde: I understand, I'm simply making a comment for the record. It was not intended as a criticism, simply a comment for the record.

Councilman Coté: I make a motion to reject this appeal.

Councilman West: I'll second that.

Mayor Jones: Is there any other discussion? Let's take turns with a roll call vote:

|                  |  |
|------------------|--|
| Councilman Coté  | I reject for basically the same reasons as the previous appeal.  |
| Councilman Kost  | I reject for the same reasons as the previous appeal.            |
| Councilman West  | I vote the same way, because of the previous discussions.        |
| Councilman Garde | I vote to reject for the same reasons.                           |
| Mayor Jones      | Votes to deny for the same reason as the Murphy case previously. |

Mayor Jones: Motion carried.

Councilman Garde: Incidentally, it's not a lot of fun to be up here and be rejecting citizen's with common sense applications, but this... I'm sorry, but I had no other choice. Thank you for your time.

Mayor Jones: In front of you now you have Jane Kiernan of 112 Arch Street. Are they here? Are you the one making several?

Jane Kiernan, 112 Arch Street and 114 Arch Street.

Mayor Jones: 114 Arch Street is right underneath and it is listed as Kaplan-Phillips.

Seth Thompson: For the record, we have a document that's entitled Tax Appeal 112 and 114 Arch Street and then attached to it, a lot plan labeled Document A, Document B is a list, like the prior list in terms of lot sizes in Heritage Creek. Then Document C is a comparable multi-unit dwellings in Milton land value listing.

Jane Kiernan, 112 Arch Street: I'm hopeful that the third time is a winner. I just want to start to thank Kristy Rogers and Krystle Clark in the Town Hall who were helpful to me as a new resident and a last minute filer. I appreciate their help. We live in a triplex; three side by side units. We are appealing the lot size and the value of our home. The lot size for us is 28', which you can see in the site plan on Document A, that's valued again at the same value \$80,000. Document B you can see that other homes within Heritage Creek, which have a 60' width are also valued at \$80,000. That doesn't feel equitable to us. 28' is quite a significant difference from 60'. Document C shows you other

developments with in the Town of Milton, which are quite similar to the townhomes that we have. Those homes are valued at \$50,000 and \$40,000 for land value. I'm wondering why the home within Heritage Creek, which is quite similar to these other multi-unit dwellings in Milton, has such a different value for the land.

David Hickey: Heritage Creek is entirely different than Shipbuilder's. I noticed how some of the comparables you used. Yes, you have a triplex unit there and I'm just curious, how much are your Homeowner's Association Dues there?

Jane Kiernan: \$297.

David Hickey: Is it the same as somebody that has a free-standing house?

Jane Kiernan: No. We're reduced because we have no landscaping because we have no yard.

David Hickey: Because it's a triplex. But just a minor difference right? How much difference?

Jane Kiernan: Roughly \$200 difference.

Unidentified Speaker: It's about \$160 less.

David Hickey: A month?

Jane Kiernan: A quarter.

David Hickey: So it's \$400 a year.

Unidentified Speaker: Actually, it's \$600 a year.

David Hickey: \$600 a year, so you're getting a reduced value for the use of your property, that reflects, I guess, the smaller space.

Jane Kiernan: Right. We should get another landscaping fee. It's not clear to me why we shouldn't get the same reduction for the tax value. Why should we pay the same \$80,000? [garbled].

Unidentified Speaker: That's a very large difference.

Jane Kiernan: And if you look at these other multi-unit dwellings within Milton, Tobin, Ocean Court, South Spinnaker, Mainsail, these are multi-unit dwellings \_\_\_\_\_ and we have no amenities.

David Hickey: No comparison.

Jane Kiernan: It's a huge \_\_\_\_\_. We don't have any and I don't see why...

David Hickey: How about if you looked at the multi-unit lots in Cannery Village, they have \$80,000 on those.

Jane Kiernan: And they have full amenities, pools and all the rest of it. We have some mud. We have a parking lot, but no pool.

Councilman Coté: Yes, but just as a matter of fact, a lot of folks in Cannery Village were there for 5 or 6 years with the mud and the dirt and no amenities.

Councilman Kost: I know I was there for seven and when I moved in, from my front porch looking that way, there was nothing. Just nothing.

Jane Kiernan: I understand that.

Councilman Coté: I have a technical question. Did the original plan... I seem to remember that the triplexes in Heritage Creek, were a change from the original plan and they probably weren't in the bases you used to... this is a... I don't know when the change happened.

Seth Thompson: Councilman, I think you're right. It would have been a change the Master Plan, because this is one of those communities where the Master Plan was very

detailed and I want to say that was about two years ago that they amended the Master Plan.

David Hickey: I agree. When we first did Heritage Creek, those triplex units didn't exist and then all of a sudden they started appearing, but again, at that point we were instructed to keep the values on all those properties in Heritage Creek to be valued at \$80,000. Again, it seemed to be consistent with what the properties had been bought and sold for. It's just like since Ms. Kiernan is here to speak for herself and the Kaplan-Phillips; Kaplan-Phillips has the interior lot, right? And you're on the end, right?

Jane Kiernan: We're on a side end, right.

David Hickey: You're on the end farthest away from the corner. Right. And you both bought your property about the same time. Are you saying your property is better because it's not interior; you have a 33' lot and hers is 28'.

Jane Kiernan: We're both 28' lots.

David Hickey: If you look at your plat there, it says 33'.

Jane Kiernan: It's 33' in the front and...

Mayor Jones: And 28' in the back.

David Hickey: But the bottom line is, their lot with the 28' in the middle, they paid more money than you paid with a larger lot on the end.

Jane Kiernan: The difference in the lot size between the two was 2-3 feet; it wasn't relevant from [garbled].

David Hickey: And that makes my point exactly. 112 Arch Street, this plat that you just gave me, shows the lot's 33'X100.06' and the 114 Arch Street is 28'X100' and you bought the larger lot for technically less money, \$6,000 or \$7,000 less than what they paid for the smaller interior lot.

Jane Kiernan: They have parking like ours and they have a better this and...

David Hickey: Then your argument should be made that we don't have enough value on the improvement portion, but as far as the land goes, even at that it's inconsequential. You got two lots, side by side and one triplex, the smaller, interior lot, paid more money than the one on the 5' wider lot on the end.

Jane Kiernan: Which may be true. Maybe I'm a better bargainer.

David Hickey: Exactly.

Jane Kiernan: I'm looking at the \_\_\_\_\_ in the Town of Milton, which are at \$40,000 and \$50,000.

Councilman Coté: But you're not Shipbuilder's.

Councilman Kost: You're not comparing apples to apples. You're comparing Shipbuilder's Village to Heritage Creek and Heritage Creek, when it's finished, you're going to have an open space community building, which is part of what you're paying for. Shipbuilder's Village will never have that. You're not comparing the same thing.

Jane Kiernan: I'm new, but I'm looking at the size of the lot. I'm looking at the land that they currently have, the amenities that they have and right now they're the same as what I have. Nothing. I've got a nice house. I love it. I've got great neighbor's, but I'm looking at no amenities.

Seth Thompson: Ms. Kiernan, I'm...

Jane Kiernan: Can I make one more comment? The other thing is that we have a new builder in the community, who has now come in here and he's selling those lots for

\$20,000 less than I even started to bargain with and so I've taken a \$20,000 hit, within a month of moving into my house. It's a big hit for an old lady on Social Security. It's a big deal.

Seth Thompson: That was actually going to be my question. I was trying to read on your appeal form, it says new builder now providing lower cost unit and then underneath it, something overstated.

Jane Kiernan: Land values overstated. But the new builder is in there and \$20,000 less than what I paid.

Councilman Garde: When you say \$20,000 less. How is that put to a buyer? How does the buyer of the...

Jane Kiernan: The base price of those triplexes is \$239,000, which is \$20,000 than I started out.

Councilman Garde: Okay and does the new builder use the same standards, not the code compliance, but the same standards, such as joist sizes and spacing; whether he's gone to 24" and you're at 18"; the code would allow 24". I have no idea.

Jane Kiernan: I don't know.

Councilman Garde: I suspect, though I don't know, maybe I should keep my suspicions to myself? So I will. I'm better off. I have no facts. You have a fact that it's \$20,000 less. That could be because he's valuing the property less and it could be because he's using lower cost materials. And we don't know, sitting here, so I'm unable to make a reasonable evaluation.

Jane Kiernan: I don't know either. I just know that when you come into the community and you drive past my house to a brand new house for \$20,000 less. Why stop at my house? So I've already...

Mayor Jones: I have a question and a clarification. I just want to make sure that on the Kaplan-Phillips property, the assessed value is equal to what was purchased. It says \$287,600 and it was purchased for \$287,000.

Jane Kiernan: No, \$287,600. The original purchase price was \$249,000 and with the upgrades it was \$287,600.

Mayor Jones: So, it's appraised at the same value it was sold for? I just want to make sure, because I want to make sure that those figures are right on my paper.

Jane Kiernan: The \$287,000 was the number that one of your Town Clerk's put in.

Mayor Jones: \$287,600. Okay.

Jane Kiernan: I'm assuming that she knew what she was doing.

Mayor Jones: So, it's been assessed at the same value of the sale price. On the Kiernan property, I have a purchase price of \$276,236, but I have no current market value. What is that assessed at Mr. Hickey?

David Hickey: \$297,300, it's about 200 square feet bigger.

Seth Thompson: Ms. Kiernan, I see on your appeal form you put your estimate of value to be \$239,000, is that based on those others being sold for that price? I thought so. Okay.

Jane Kiernan: [garbled].

Councilman Garde: I suspect that there's also some value in terms of upgrades and all these builder's; if you want knobs on your cabinets, you have to pay for them.

Jane Kiernan: I'm just appealing the land value.

Councilman Garde: Yes, your appeal is the land value. Okay. Thank you.

Paul Swider: May I ask something?

Mayor Jones: That gets very confusing if you will please.

Seth Thompson: It's really Ms. Kiernan... Certainly if Ms. Kiernan's okay with that; it's her appeal, so...

Paul Swider: \_\_\_\_\_ her appeal.

Jane Kiernan: They're supporting me.

Paul Swider, 214 Heritage Boulevard: I understand that the original assessments were based on the original plan which called for all single family units, so that lot where there's now three units was going to hold two, one family homes. So if they were going to be assessed at \$80,000 each, that's \$160,000 for that lot. Now you have three units that you're assessing at \$80,000, so it's \$240,000 for that same lot. Am I thinking of this wrong?

Councilman Kost: You're forgetting open space. You've got to think in terms of when the whole thing is done, the amount of open space remaining, is proportional to the number of homes built. Literally what happens is, you're allowed to have so many lots on the property of a certain size. You can reduce the size of the lot, but then you have to take the difference and put it into open space. Sooner or later, if that builder ever gets finished, that's where your extra land goes, into the open space.

Paul Swider: At that time, shouldn't it then be assessed then, for that open space which we don't have now? Well anyway, my only point was the three vs. two; three houses on one lot that would have had two houses, all being assessed as a single family house; so you've got an additional \$80,000 coming out of the lot.

Councilman Garde: And I believe that we had stated something along those lines earlier, that if there were lots divided and however it was that Mr. Hickey phrased it, so that argument is somewhat compelling at least for me. I'm happy that you brought it up on behalf of another appellant. Having said that, we used some of the logic that you're using in part of our defense of just the general discussion of assessments in general; so I won't say I'm convinced, but it's somewhat of an excellent argument to me.

Seth Thompson: And Mr. Hickey, maybe if I can hear how the difference between a single family detached home vs. a townhouse vs. a duplex or a triplex, in this case; where does that difference show up? Because, I think most people would say well I'll pay more for that single family home; I'll pay more for that duplex, well I'll pay less than for a single family home and then I'll pay even less for an interior row unit; if they're all the same size and all of that. So where would we expect to see that show up in the assessment?

David Hickey: Over time you'd have sales that would show that. Normally what I would do would be to put less money on per square foot on townhouses. I normally do that, because over the years, I've seen that. Now in Heritage Creek, there hadn't been enough transactions, especially these triplexes had not occurred, prior to the reassessment, so I had to fall back on the consistency with what we did throughout the neighborhood. I couldn't change things drastically away from there and as far as going to talk about a new builder coming in and offering less money, sometimes that's an attributable fact, you've got a new builder and he's trying to sell some units, so he discounts the price to try to kick start some sales. It makes better sense for them to show lots of construction

going on and to attract other sales, so that would be one of the questions I would have about that.

Jane Kiernan: I understand that, but that still from my value...

David Hickey: But the bottom line is you could not tear your structure down and sell your lot; you couldn't sell your lot, you couldn't sell your house to Mr. Swider and your lot to Mr. Jones. The structure is there.

Jane Kiernan: Right.

David Hickey: It's an economic unit, so we valued it as best we could, based on consistency throughout the neighborhood and again, if there's a reassessment done and there's lots of sales of units in that sub-division, that would be the basis of the value, but there's no comparison between units in Heritage Creek and up there in Shipbuilder's Village. It's a world of difference.

Mayor Jones: Mr. Hickey, in 2009 you would be using that as the assessed price, I'm talking about 112 Arch, now and the current market value, it's currently assessed at \$297,300. This triplex wouldn't have existed in 2009 and not understanding your job completely, tell me how you would have compared this to any other unit, in that... not the land value, but the home value, alone. How would you have compared this?

David Hickey: We came up with rates per square foot. It's based on size, like 114 Arch is 2,088 square feet, we're using \$63.26; the one at 112 Arch is 2,129 square feet, we're using \$62.70; it's a little bit bigger, but the unit price per square foot comes down a little bit. Then we make allowances for sizes of porches and patios and garages; but all that is uniformly applied, with all the properties in there and originally it was based on the properties that sold... well actually, it was based on properties, like similar properties throughout the town and it's the same old thing. They always talk about real estate. Location. Location. Location. Properties in Heritage Creek are more valuable than properties in Shipbuilder's Village.

Jane Kiernan: What about these other developments? You're telling me Shipbuilder's Village isn't an equivalent. I'm putting in here Tobin, Ocean Court, Spinnaker, Mainsail... Those are not equivalent?

Mayor Jones: Actually Tobin is the outstanding one there.

David Hickey: That's off of Union, right?

Mayor Jones: It's between Union and Mulberry. The rest of them are actually located within a sub-division.

David Hickey: But it's also in that north end of town, away from all the amenities of what I call the nice section of Cannery Village and Heritage Creek; it's a different world.

Mayor Jones: It truly is not comparing apples with apples; the four properties you presented here are possibly not the best comparisons that could have been used, but you wouldn't have known that.

Jane Kiernan: I didn't know that. I could only drive by and see that they were townhomes. [garbled].

Mayor Jones: I understand.

Jane Kiernan: My home does not compare to \_\_\_\_\_ big lots. 28' and 60' are significantly different.

Councilman Garde: I'm not sure when the right time to ask my process question is, but I was thinking of waiting until a second on the motion, but what is our flexibility here?

Can we only... Is this like a baseball arbitration, where you have two, you either do this or that? Or can we do an in between? Can we recommend?

Seth Thompson: That's a really good analogy, by the way, a baseball arbitration.

Mayor Jones: Yes, it is.

Seth Thompson: So what we need to do... the process is the town's assessment is presumptively valid. The appellant, then has the opportunity to present evidence that some other value is more appropriate. You aren't necessarily bound by those two values, but we do need to understand where the number came from. It does need to be the product of an orderly and deductive reasoning process, so numbers shouldn't just be drawn arbitrarily, they need to reflect some calculus on the part of the Council.

Councilman Garde: And is the Council allowed to put forward such a calculation?

Seth Thompson: They certainly are. Again, the key is to understand why the Council elected to do what they did. So, for instance, you might agree on everything that Mr. Hickey says, except for it turns out there was I think at one point we had a basement that people thought was finished and it wasn't; so that number needed to be adjusted, so that wasn't a wholesale adoption of one number or the other, it was a calculation to get to the right number.

Councilman Garde: Even if the appeal is not based on one set of reasoning, are we allowed to impose an alternative set of reasoning?

Seth Thompson: Right. You don't need to wear blinders, if there's some problem.

Councilman Garde: Okay. I don't know how the rest of the Council feels, but I thought the argument of putting three homes on a lot that had originally been planned for two, is a compelling argument. I don't know how the rest of the Council feels, but if we were to take it two times \$80,000 and get to \$160,000 and divide that by three, I don't know if the appellant would be satisfied, but I think there's a compelling reason to at least consider that.

Councilman Kost: I disagree.

Seth Thompson: But the resulting number would be \$53,333.

Councilman Garde: For each one of those three.

Councilman Kost: I disagree for the following reason. The value of a home, if you buy a home today, you look in the newspapers and you pick out a home and you buy it, you really aren't buying it for the land; you're buying it for the house. That's what sets the value. No one when you buy a house... The seller doesn't say to you, here's my house and I'm selling the house for this much and the land for this much. You buy the package. The value of the lot is not particularly relevant. In this particular case, what's being done here is by law I think we're required to show \_\_\_\_\_. It's an arbitrary use of numbers. The real value of your house is... The value you worry about is the assessed value. The assessed value really reflects the value of your home; then you could say that the land is worth \$1, \$50, \$10,000, pick any number you want, as long as that last number, assessed value is correct. If that's correct, the rest of it is just playing with numbers.

Gerry Kaplan, 114 Arch Street: Based on what you had just said, my question would be, our house is assessed much lower than some of the single family houses, so you're saying that the taxes should be based on the value of the home and not on the land? Or did I misunderstand.

Councilman Kost: They're combined. When I look at this, the only number I really care

about is the total number at the end. You're at 112 or 114?

Gerry Kaplan: 114.

Councilman Kost: The assessed value of your house is \$287,600. Is that correct?

Gerry Kaplan: I don't know that for sure, but I'm making that assumption that that's correct. I didn't put that number in.

Councilman Kost: To me, that's the only number that counts. If that number's right, then your tax bill is right.

Jane Kiernan: How do you know that's right? \$297,000 based on...

Councilman Kost: Truthfully, the only way you'll ever know if that's right, is the day you sell it. I've sold a number of homes. I was in the real estate business. I bought and sold industrial buildings, land, office buildings and I've appealed on a lot of pieces of property around the United States and in the end, the only number that counts is what you sell it for; then you really know what it's worth.

Gerry Kaplan: But my question to you is, if my home's assessed value is \$287,000; the bigger homes and the single family homes are assessed at a lot higher rate, I'm sure, but yet we're paying the same taxes.

Mayor Jones: On the land. Let me clarify. On the land.

Gerry Kaplan: We have no land. We have virtually no land.

Mayor Jones: But for each of you in Heritage Creek, the land value is set at \$80,000 per property, let's call it that. So the difference does become the value of the home, the structure on the land.

Seth Thompson: Mr. Hickey, it might help if you during the assessment process, in 2009, were aware of the triplexes that were going on and you decided that somehow that lot should be a different number, what would that have done to your approach? Would that have changed the number on the improvement? In other words and I recognize that you didn't have... we're unfortunately in the land of hypothetical here, because there weren't sales back then...

David Hickey: I might have had less value on the land, but I would have had more value on the improvements, so if you take it away from the left hand, you have to add it to the right hand.

Seth Thompson: In order to come up with a comparable sale number.

David Hickey: The bottom line value, right.

Mayor Jones: None of us are tax assessor's either. I want to make that really clear to you. Councilman Garde is right. We struggle, just like the homeowner's do. We understand.

Councilman West: It's just like me, Ma'am. The house next door to me is worth less than what my property is and they've got more property and house on it.

Jane Kiernan: Did you appeal it?

Councilman West: There's no need, because I had a realtor appraise these two properties, because they were family properties under the settlement of my mom's estate. I had a realtor come and appraise these two properties and he said my property was worth more than the other property. I didn't understand it, but then he explained it to me. So, that's just the way the real estate market is. It's crazy.

Gerry Kaplan: What? I have to say the application says property value appeal and that's not what's happening here, I don't think. I think it's being based on 40 people bought a

home in Heritage Creek. Everybody's going to pay the same, regardless of the size of their property. And if that's the way it is, I understand that. I don't agree with it, but...

Mayor Jones: No, for me it's not pay the same, meaning you the buyer; it means that the properties for tax purposes are all assessed the same. That's all that means. It wouldn't have anything to do with what you bought your homes for.

Councilman Garde: And that's what I was trying to say earlier. Assessments for tax purposes are done by professionals who understand the general rules that are applied across almost the whole United States, they're general rules and I don't have a really good basis to sit in judgment of the general rules, unless they make... I shouldn't say that. Unless they don't appear to be applied uniformly. It's in the application of those norms that I would like to see done uniformly. I think in the cases we've heard so far, I'm in agreement that the assessment norms have been applied uniformly. In your case, I'm not quite as convinced.

Gerry Kaplan: Thank you.

Mayor Jones: Does Council have any other questions for these applicant's? Any questions for Mr. Hickey? Do you have any other questions for us? Thank you. Again, Councilman Garde, I think that both of these applicant's made again, some compelling arguments and I've made some notes to look at in the future, but right now I'm prepared for a motion based on hearing the cases as they are presented. Let's do two motions. Let's start with Jane Kiernan's at 112 Arch Street.

Councilman Kost: I make a motion we reject the appeal based on the fact that the comparable lot information supplied was not comparable to Heritage Creek.

Councilman West: I'll second that motion.

Mayor Jones: Is there further discussion on that motion? We'll start with Councilman West's vote, please.

Councilman West  
Councilman Garde

I vote to deny, based on the previous votes.  
I can't accept theirs, so therefore I either have to abstain from voting or vote to approve the concept of making the three properties involved at the \$160,000 and divide each one of those by three and put that assessment on those three properties.

Councilman Coté

While I appreciate the appellant's position, at the present time I have to vote to deny based on the previous discussions and the fact that, and I agree, that the comparables listed are not really comparable.

Councilman Kost

I agree to reject based on the comparables not being comparable.

Mayor Jones

I would vote to deny this appeal based on the use of the formula of the \$80,000 land value for each of the properties in Heritage Creek.

Mayor Jones: Motion carried. Now you're looking for 114 Arch Street, the Kaplan-Phillips property.

Councilman Coté: Motion to deny the appeal.

Councilman West: Second that.

Mayor Jones: Any other discussion? We'll start with you Councilman Coté.

Councilman Coté  
Councilman Kost  
Councilman West  
Councilman Garde

Vote to deny, same reasoning as previous.  
Vote to deny same reason as previously used.  
I vote to deny, based on the same as before.  
My vote is the same as with 112 Arch Street, which is to take two properties, add the value of \$80,000 plus \$80,000 and divide by three and assess each one of those three that way.

Mayor Jones

I also vote to deny based on the principle of using the one consistent number for land value in Heritage Creek.

Mayor Jones: Motion carried.

Mayor Jones: You have in front of you an appeal from Lynne Celia, 309 Front Street.

Lynne Celia: 309 Front Street: Good evening Mayor and Council. I don't know if you remember, but I was here about a year ago and I actually was late and I did try and appeal to be heard, but my appeal was turned down; so I paid my \$3,000 property taxes and I'm back to appeal the property taxes on Front Street. I do not have comp's for this property, however, I do have an appraisal for it. I'll tell you what I think are the salient facts here, around this, and I'll share with you an email as well. I am very interested and I'm sorry I got here just a few minutes late. I don't know the names of the appraiser's that are here, so I apologize. I've owned the property since 2007. I actually had planned on it... As you all probably know, it's a very unique property. It is the only one in the town zoned MR, Marina Mixed-Use Commercial/Residential. In the Code, I could build on it. There's a handful of things that I could potentially build on it and I want to be very clear, as I said in last year's meeting, I am not a builder. I am not a developer. I have two children. I'm a single mom. My Dad is in assisted living and it's been a very difficult few years, but when I had talked... I came here thinking I was going to live here and life did not go quite as I expected, so I had to leave for personal reasons, but I'm just like everybody else, trying to make ends meet. For some reason, people think I'm a developer. I'm entrepreneurial, but I'm not a land developer. I saw a lot of promise in this town and came here to live full time and raise a family and try and make a living and it didn't work out, but that's why I own some key commercial properties in the area. So I bought the property in 2007. I actually negotiated on a property with Mrs. Wilson in 2004, but the agreement was that I would not actually close on the property until I had taken it all the way through approval with the then current Council for Mixed-Use Commercial/Residential. We were going to do about 20,000 square foot of commercial and maybe about 12 condo's, something like that and sure enough we took it all the way through to approval with the town and the town loved it and I purchased it, when we had full approval and I was going to contract it out, create something incredible for the town, create a destination for the town, contracted it out, was in the process of finding builder's and such and then the economy fell apart. We all know what happened in 2007,

2008. So I never ever ever moved forward. My business partner left me. I paid him... he's actually one of the gentlemen that was involved in Wagamon's West Shores. I paid him back every penny that he invested in the project; when other partners were not paying their partners back, or giving them a nickle on the dollar. I paid him every penny and he took off. I tried to sell it about 4 or 5 years ago and the best offer I got... I paid \$1.5 million for it, which is what you all have it assessed at. I tried to sell it 4 or 5 years ago. The best offer I got was \$500,000. I used Keith Walpole from R&R Commercial Realty. I had it listed with Dave Kenton. I had it listed with several local people. Best offer I got was \$500,000 for a property that I paid \$1.5 million for. In 2012, the banks closed in on me and thank God, with the help of some of my closest friends back in Virginia, because I had to leave Delaware, I had to leave Milton; I was able to settle with the bank and no lose my livelihood, because I'm a financial advisor and financial planner and if I had been foreclosed on, I would have lost my profession. My father got ill. He has no long term care insurance and I'm trying to pay for that. That's my story. Now, this is one of those things with good news, bad news; so the bank said, well, I've got good news and I've got bad news. I said, well what's the good news. Good news/bad news. Our commercial appraisal says the marina is worth \$360,000. This appraisal was done in March of 2012, so you don't know how to take that when you've paid \$1.5 million for something. I asked for a copy of it to show you all, but they won't give it to me. But you can see it's from Robert Show, Vice President of Recovery Services from WISCUS.

Seth Thompson: Mrs. Celia, may I put this in the record?

Lynne Celia: You sure can.

Seth Thompson: So it's a one page email. It was printed today, but the email dates back to October 8 of 2012.

Lynne Celia: You have to realize that they did the appraisal in March. Do you see the appraisal date?

Seth Thompson: Right, it says 3/16/2012 for Eagle Eye...

Lynne Celia: Eagle Eye, that was the project that we were doing the build-out. Yeah. That was the LLC that was doing the project. Good news/bad news and the good news well I was basically negotiating at a very low rate. Let me just say, that's not necessarily what they wanted, because God knows I owed them a whole lot more than that. But I'm just telling you that's what the commercial appraisal. There are no comp's for this. For comp's we were looking at marina's. I don't know and clearly a question that I would like to ask, because of what I've learned from tonight is that in 2009, I guess this was in 2009, you were looking at comp's; but you didn't know what I was going to build on this property, you just know that it was zoned Mixed-Use, I imagine.

David Hickey: No. I knew that you paid \$1.5 million for that property and the date was 11/8/2007 and we're coming along a year later doing a reassessment...

Lynn Celia: In 2009?

David Hickey: Well it went into effect in 2009, but we were doing it in 2008.

Lynn Celia: But in 2008 the markets had crashed; they were already crashed.

David Hickey: At the end of 2008, I agree, but the most recent market evidence we had at the time, was \$1.5 million, which your property had been recently.

Lynn Celia: For the tax records, right? What I had paid for it.

David Hickey: What you had just paid for it.

Lynn Celia: Right. I understand.

David Hickey: As a financial planner, you're dealing with people that... if you're dealing in that atmosphere, my assumption is you know what you're doing and that you didn't just throw money at that property; you weren't just throwing it up against the wall...

Lynn Celia: No, no. I understand. I made an agreement. I had a contract. Took it all the way up. Chose not to go forward with the development. We're not talking about my business decision; we're talking about the value of the property today and I'm here appealing it.

David Hickey: Well, we're really talking about the property, the value of the property; what it was when the assessment was done.

Lynn Celia: On what day did you appraise it?

David Hickey: The appraisal went into effect on July 1, 2009, so your appraisal, be that as it may...

Lynn Celia: When was it actually for? It went into effect July of 2009; believe me, I'm trying to understand. When was it actually...

David Hickey: When we finished the reassessment in the spring of 2009, we had hearings and everybody was sent a notice saying this is your assessed value; you were given a notice of \$1,490,500 and you had the opportunity to come in at that time and say, hey, I paid way too much for this property. I think it's not worth it and I agree, that if we were to do a reassessment now, having even looked at that property today, I don't see how \$1.5 million in today's market would be there, but when we were doing the reassessment the only information we had was what you paid for it.

Lynn Celia: What I paid for it. Sure.

David Hickey: Up until tonight, as far as I know, that has stood. You say you appealed it last year. I didn't even know that.

Lynn Celia: No, no, I was late and it was my fault and I tried to come back and get heard and I missed it and I was denied being heard and I paid the taxes and said fine, I'll come back this year and ask. I'm not here to... I support the town. Trust me. I still believe that I still have the vision.

Councilman West: Ma'am, what does the County assess your property at?

Lynn Celia: Oh, you know, Sir. I don't even know. I could look that up for you. The taxes are low that I pay them. They're low.

David Hickey: County taxes are basically 1974 values.

Councilman West: Wait a minute. Just wait a minute.

Lynn Celia: They're low.

Councilman West: The County taxes do not compare to town taxes, like he said, 1974, it's about half then what this appraisal is.

Lynn Celia: You know...

Councilman Kost: Ms. Celia, for you to change the value, you need to hire a professional appraiser, which you gave us is a bank's estimate. That's not an appraisal.

Lynn Celia: It was an appraisal. It was an honest to God commercial appraisal.

Councilman Kost: It doesn't have the name of an appraiser with the proper initials behind it, the way I understood appraising.

Lynn Celia: Oh no, they're not... Yeah I started to say, but I apologize, I did not finish

my sentence.

Councilman Kost: I think what you need to do is come back with a professionally prepared appraisal with comparable values and then you have a case.

Lynn Celia: Well that will cost me. I'd like to tug on that, if I may. The bank always, always in a settlement case, is going to do a commercial appraisal.

Councilman Kost: I don't see it.

Lynn Celia: Well, he cannot give me a copy of it. I would have to give him \$2,000 or \$3,000, in order to get a copy of it. So may I tug on that, please? I don't think even our appraiser... may I get your name?

David Hickey: David Hickey.

Lynn Celia: Oh, Mr. Hickey, of course. Everybody's been saying it all night. Mr. Hickey. I don't think he even just said that today, I don't think there's a person in this room, the reasonable person test, would say that that property is not a \$1.5 million property and I don't think that it's fair that the town ask me to go to spend \$2,000 to \$3,000 on a commercial property appraisal to get reasonable people to say that my property is not a \$1.5 million property. Now I am not asking for you to lower it to \$360,000, but can we not be reasonable people here and at least meet me halfway and reduce it to \$750,000? I kid you not. You cannot tell me that that property is worth...

David Hickey: When you purchased the property, did you secure financing?

Lynn Celia: Yes, I did.

David Hickey: So somebody had to have prepared an appraisal at that time. Can you get a copy of that appraisal?

Lynn Celia: No, the appraisal that we want is the one that was done in 2012, that says it was worth \$360,000; otherwise I'd have to go pay \$3,000 for a commercial appraisal.

Seth Thompson: I think Mr. Hickey's point, though, is that the 2012 appraisal was for the 2012 time period; so we have the difficulty, just like now where the value is different today than it was in 2009, so that's why he suggests...

Lynn Celia: I apologize for interrupting. Do we think the commercial market has doubled in the past three years?

Councilman Kost: Ma'am, the point is we have no idea what the real value is. None.

Lynn Celia: May I ask? I have a commercial appraisal. You can call up this bank. You can speak with this Vice President. You can speak with this Vice President and you can talk to him and validate. That was a bona fide commercial appraisal done on that day and I want us to extrapolate... look at this town in the past three years. Look at the commercial property. I have spoken to realtors between last year and this year. Commercial property has not sold. You have commercial properties that have been on the market for years and I'm not going to stand here and name them to you, because you all know what properties they are that have been on the commercial market for years in this town. I can tell you what properties they are. I know what properties they are. They've been on the market for years. Now, the commercial market has stabilized perhaps maybe with respect to tenancy, in terms of the strip malls that we have. Tenancy is stabilizing over the past two to three years in the town, but do not talk to me about the commercial market. I own Mulberry Street Cafe... I'm sorry, that's a long, long time ago. I own Goodfella's. I have been in the commercial business, in this town, since 2003. Do you know that that's 12 years and if you can stand here and you can treat me this way, in

all honesty, I mean seriously?

Mayor Jones: Ms. Celia, the only point I've heard trying to get across is that... now let me finish.

Lynn Celia: Yes. Please.

Mayor Jones: You have a \$360,000 appraisal here, done in 2012.

Lynn Celia: Right. Three years ago.

Mayor Jones: Right. We're trying to tell you, again, that these assessments were done and are uniformly, across the board, in the Town of Milton for 2009.

Lynn Celia: Right.

Mayor Jones: Okay? That's the figure we're talking about tonight.

Lynn Celia: Right.

Mayor Jones: I want to just make that clear so that we are all on the same page. This appraisal is for three years past that time. The homes in Milton right now are assessed at a 2009 value.

Lynn Celia: Right.

Councilman Garde: You asked us to be reasonable. We have to apply the rules uniformly and this assessment is based on an assessment that was done in 2008, effective 2009. The same way I had made a comment earlier that someone's sale price in 2014 is essentially irrelevant. Your appraisal in 2012 is essentially irrelevant to an assessment that is based on the date of July 1, 2009. I hate to say that because it sounds unreasonable based on today's values. But the assessment is based, uniformly, throughout the town, every landowner, every property owner, every everybody is based on the assessed value of 2009. Part of the art currently when they go out and sell a property today, for the first time and it gets assessed, he's got to do some magic and take it back to the dollar per square foot that he was using for improvements back then and not what it is sold for today; because today's sale price is irrelevant to Milton's assessments and your assessment, while as far as I'm concerned is a valid assessment, I don't have any argument with it. Someone else might. Because I don't think the property is worth \$1.5 million. You asked us to be reasonable. I agree with you.

Lynn Celia: It's not. We all know that. That's not the point.

Councilman Garde: It's not what the assessment that the town is applying uniformly for all properties, are assessed based on the value at 2009. Now if you had a 2009 assessment for \$340,000, I would be compelled to agree with you, but since you have a 2012, it's not near as compelling, despite the fact that it doesn't seem just. It may not seem just, but it is uniformly applying the same standard to every other appraisal in the Town of Milton. That's what I think.

Lynn Celia: With all due respect, it is completely unreasonable to think that every person that comes up here will have an appraisal from 2009.

Councilman Garde: You're exactly right. It is unreasonable.

Lynn Celia: So what is the purpose of the appeal process?

Seth Thompson: It's your opportunity to present evidence and it needs to be reliable, credible evidence that the number is wrong. That's what that process is there for. Some people think it's financially worth it to go forward and get an assessor or an appraiser that then dates back; does a time lapsed appraisal and presents that as their evidence in saying the number is incorrect.

Lynn Celia: So then I would be doing an appraisal of the property in 2009, not today.

Seth Thompson: Correct.

David Hickey: What I suggest you do is where you secured financing for that \$1.5 million purchase...

Lynn Celia: That was 2007 though.

David Hickey: Well there should have been an appraisal done by somebody to justify using that property as collateral and generally, the appraisal would have been probably higher or they never would have loaned you any money on it. So why don't you go back and get that appraisal.

Lynn Celia: But that wouldn't support my case. I don't understand.

Seth Thompson: Well it would in the fact that banks wouldn't lend \$1.5 million on something that wasn't worth...

David Hickey: At least \$1.5 million.

Lynn Celia: But aren't I looking... Excuse me, I'm very lost. I thought the appraisal had to be from 2009 when it was probably worth a lot less, because of the market crashing. Aren't I trying to get the number down?

David Hickey: The most time... What you need to do is find the appraiser that did that original appraisal and say, I need you to relook at that property and value it as of July 1, 2009.

Lynn Celia: Now, may I ask then, why in all of the discussion of Heritage Creek, did we not just tell everybody here about 2009; or did Heritage Creek come after 2009? I'm a little confused about this 2009 thing, because we all... Heritage Creek we seemed to be talking in the present day, about their properties and how big they are and this and that.

David Hickey: The values are based on the values as of 2009, so the assessment was done uniformly, based on sales that had occurred at that time, of which your property was the most recent sales evidence for that property, so that's why it was based on that value, which at the time, you probably thought was perfectly okay because when you got your original notice, no appeal was made until just recently when the market has all gone down.

Lynn Celia: So let me get this straight. Appraisal, being an art and a science, you just simply took what I paid for it and did not take into account that the whole economy had crashed through the floor, from the day I bought it to spring of 2009. You didn't apply any art or science, you just simply took the tax record and what I paid for it. Would that be correct, Mr. Hickey?

David Hickey: That's the most recent information we had and at the time, yeah... right now, hindsight, being 20/20, we know that the depth of the change was a lot deeper, but at the time we were doing the assessment in late 2008 and early 2009, I did not know the true magnitude of what was going to come.

Lynn Celia: It had already come, Mr. Hickey. It was a bloodbath in 2007, 2008.

David Hickey: I remember when it happened, John McCain supposedly stopped his campaign in August of 2008 and it was at that point that the bottom fell out. I was doing several reassessments at that time and I know... I have the scars on my back that goes right along with that. At the time, the best information we had to justify values was sales that had occurred prior to that time, because there was no substantial amount of sales afterwards.

Lynn Celia: That's right.

David Hickey: So we did the best we could.

Lynn Celia: There haven't been any sales since and you leave it up to the townspeople to basically come back and appeal... you leave it up to us to come back and appeal. That's quite the art and the science.

David Hickey: The appeals process you need to provide supporting evidence. The only supporting evidence you've given so far tonight is a sale that occurred \$1.5 million. You have a piece of paper from somebody you allege as an appraiser...

Lynn Celia: But you won't take that? If I get you the appraisal from 2012, will you use it? Why should I go and get another one? Will you use the one from 2012?

David Hickey: What relevance does it have to what the value of the property was in July of 2009?

Lynn Celia: What does it matter whether I use 2009 or 2012?

Mayor Jones: Because that is how your property was appraised Ms. Celia. We all need to get on the same page. An appraisal in 2012 is not reflective of what the market was in 2009. That's why Mr. Hickey asked you if you were able to have an appraisal done, or something done, when the bank loaned you that money, that might be something you would present. Now that's 2007.

Lynn Celia: Well no, the bank would only loan me the money if it appraised for what I was paying for it, so I still don't understand that logic, Ms. Jones.

Mayor Jones: But something from 2012 is not something you can compare to 2009.

Lynn Celia: Well you know I feel like everybody's being a bit short right now, because going last I'm sure listening to two hours about Heritage Creek... so perhaps we should just end it here. Okay?

Seth Thompson: Ms. Celia, you can present any...

Lynn Celia: I got the body language from... I'd like to go on record and say I really don't appreciate... Yes, Mr. what is your name, Sir?

Councilman Kost: What I was trying to say...

Lynn Celia: Excuse me. I don't really appreciate. You have been the most unprofessional I have ever experienced in all of my 15 years of knowing this council.

Councilman Kost: I was in the real estate business for 20 years, commercial, industrial...

Lynn Celia: That does not give you the right to be rude, Sir. Your body language has been so unprofessional and so distracting...

Councilman Kost: If you had let me finish, I'm trying to give you advice on how to solve your problem.

Lynn Celia: I don't need your advice, Sir. You have been so rude and so unprofessional; you've been talking to Councilman Coté...

Councilman Kost: I've been telling Councilman Coté that you're right.

Lynn Celia: Well you know what, your body language is rude and unprofessional.

Mayor Jones: Ms. Celia, we're very sorry that you've had a bad experience in front of this Council.

Lynn Celia: It's not the experience Madame Mayor, somebody should coach him on professional manners. Mr. Hickey, I've so appreciated your patience and explanation. You have been so professional. The rest of Council has been very professional and patient. I know everybody is tired and hungry and exhausted. I will get an appraisal

from 2009, because the way I understand it, the only thing is in 2019, we'll do it again?

Councilman Coté: That's the schedule.

Mayor Jones: Yes.

Lynn Celia: And that's \$3,000 more a year, so it would behoove me to spend more money, right; get an appraisal for 2009, as opposed to spending \$3,000 a year for another five or six years.

Councilman Kost: May I explain to you what I think you should do? You're going to spend \$3,000 in taxes. Hire an appraiser, the designation you want is Member Appraisal Institute, that's the highest level of appraiser you can get; get an appraisal done by him; the value that you're looking for is the value today; not 2009, today. Just listen, please. You get today's value, hire a lawyer, take us to Court, you will win. I did that. That's what I did for a living. That's what I've been trying to tell you.

Seth Thompson: I'm going to disagree on the legal.

Councilman Garde: Please don't.

Seth Thompson: Rule number one in Delaware, when it comes to assessments, is they need to be uniform and that's why we use a base year for them. All of our case law involves a base year formula. Milton's base year is 2009. The County's base year is 1974; so if you want to appeal a County assessment you have to get a time lapsed appraisal back to 1974.

Councilman Kost: Are we talking about the time value or the money? \$400,000 backwards.

Lynn Celia: Councilman Kost, thank you for your effort, but I can't afford an attorney. I can't even tell you, one time I had an attorney for something with the town and it cost me thousands of dollars to have my attorney and this guy's rates... I appreciate it. I appreciate it.

Councilman Kost: I understand that, but to me you're paying \$3,000 this year, \$3,000, \$3,000... that's \$15,000 out into the future, you could kill it this year if you go through and you're willing to spend the money. That's what I've been trying to say.

Lynn Celia: I know but Sir, Sir, with all due respect. I could spend \$15,000 in attorney's fees. Trust me. I don't have it.

Mayor Jones: I have a question for you. It's a memory question. I don't always do so well with them, so...

Lynn Celia: I appreciate it. Go ahead, please.

Mayor Jones: You purchased your property in 2007 for \$1.5 million? Do you recall what your taxes were in this town, prior, because it had been a long time since we had reassessed prior to 2009? Do you recall?

Lynn Celia: Oh yeah, it was big jump up to \$3,000. It was huge. I do remember the sticker shock. I do remember sticker shock.

Mayor Jones: After the reassessment?

Lynn Celia: Yeah.

Mayor Jones: Okay, alright. And so the other question is and it's just a matter of curiosity, you don't need to answer it. So this was appraised again in 2009 and this is the first time now; I understand you tried to come before us last year and you didn't make it. I think your Dad was not well. But that was the first time you had chosen to come before Council on appeal? Is that correct?

Lynn Celia: Yeah. You know, lots of personal since 2007, being in the profession... you basically in your life, I think in your life a lot of us get there. You handle the really, really big, big issues first and then you start to be able to get to the smaller issues. I should have been here five years ago. I should have been here four years ago, but 2011 and 2012 I had foreclosure, so getting here in front of Council...

Mayor Jones: That wasn't a judgment call. I just wondered if you had really been aware of what had happened with the taxes for those years.

Lynn Celia: Oh, I was. I was. I was aware of it every time I wrote the check, I was aware of it, but it wasn't until I could finally get here and you saw, it's taken me twice to get here. So it's not for lack of trying, but I had to get the bank off my back so that I could keep my profession. It's been very difficult. I've had a lot of personal challenges.

Mayor Jones: Well, it won't help, but on a personal note, I know an awful lot of people who like your property down there, very much. It is a beautiful piece.

Lynn Celia: As an aside, I do know own the property outright. I have my angels back home, who I'm paying back and I'm going to talk to you about some things to do with the property and I want it to be a win win relationship... I call it a triple win. I do want to keep my relationship with the town good and we'll end this on a positive note.

Mayor Jones: Thank you for coming in front of us tonight. Thank you.

Lynn Celia: Thank you very much.

Councilman West: Mr. Solicitor, I have a question. Is it possible to table this and give her a timeframe to get back with us on this, so that she's not thrown out of the loop; that she can come back and present her case again?

Seth Thompson: Your Charter refers to you accomplishing all of your assessment appeals in one sitting. It's supposed to be done tonight. I think the difficulty, too, is that if that option is given to one person then another person is going to say why wasn't I given that option?

Councilman West: Because it's a question of if you don't ask, you don't know the answer to. I would like to be fair with the lady, just as well as she'd like to be fair with us. But, I understand the 2009 assessment deal.

Seth Thompson: It's difficult.

Councilman West: That is what's binding us. I want you to know that.

Lynn Celia: Right.

Councilman West: It's not that... I would like to see you be given another opportunity to come back to us, but if the way this reads right now, you don't have that opportunity for another year. Right?

Seth Thompson: Right. She has that opportunity next year.

Councilman West: I'm sorry to say, but this will give you ample opportunity to get your ducks in a line and be able to come back to us and say look, this is the deal; here it is in black and white. I know it's a hardship. I hate it to be a hardship on anybody, but I want you to know that I would like to see you do this, come back to us with a 100% paperwork and there will be no questions. I hope you understand my point.

Lynn Celia: I do and I appreciate the gesture.

Mayor Jones: Do you have any other questions for us, Ms. Celia?

Lynn Celia: No thank you Madame Mayor.

Mayor Jones: Thank you.

Lynn Celia: Thank you very much.

Mayor Jones: We will need a motion on this case.

Councilman Coté: Motion to deny the appeal for 309 Front Street.

Councilman West: I'll second that.

Mayor Jones: Thank you. Any further discussion? We'll do a roll call vote:

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| Councilman West  | I make the motion to deny, based on the previous votes that we've had, but I'd also like to see the lady do what I asked of her, to come back to us next year with better results.  |
| Councilman Garde | I vote to disapprove the appeal, but I want the appellant to understand the term uniform. Your appeal is compelling on a personal basis and I think I would agree that the property is not worth that today, but our obligation in settling appeals has to do with uniform application of the same rules and since there is no basis presented, in terms of uniform application of the same rules, I have to vote to deny your application. |
| Councilman Coté  | Vote to deny, based on the uniform application of the values and the rules and I would hope that if you do it again, we have some better evidence of what you feel the value should be.   |
| Councilman Kost  | Vote to deny same reason as previously used. I just can't come up with the final number. I think you've got a great case. It's a good case. It's just that there's no way to vote for it yet. That's what frustrates me.  |
| Mayor Jones      | I also vote to deny. There was no compelling documentation to reverse the text.   |

Mayor Jones: Motion carried.

Mayor Jones: You have in front of you two applications, both from Donald Webster. One is 604 Union Street and one is Lot B, Orchard Street. There is no applicant here for this appeal.

Kristy Rogers: I did receive a call from Mr. Webster last week and he explained he would not be in attendance because he's in Florida. His appeal is based off the purchase price vs. the assessment and after I explained to him the scale used in 2009, he did understand, although he would not be able to be here.

Mayor Jones: So without the applicant present, if I recall last year we did not hear the cases.

Seth Thompson: Well, the reason for that is again the process is the assessment is presumptively valid; if you don't receive any information to overcome or change that presumption, there's no basis for the Council to decide on any other numbers. The presumption remains.

Councilman Coté: Do we have to vote on it even though there's no case presented?

Seth Thompson: You don't, because they didn't present a case.

Mayor Jones: So we will table the Webster appeals, both 604 Union Street and Lot B Orchard Street; and maybe table is the wrong word to use. We're not going to hear these cases, this evening. Correct?

Seth Thompson: Right.

Councilman West: I said the same thing. I made that mistake too, but based on Mr. Hickey's assessment of everything else, these two should stand as they are. It's using that formula of 2009 and it's uniform.

Councilman Garde: He did have a reason for appeal, so I think we could, in my view, could comment on the reason for the appeal and actually not just say he's not here. If he wants us to review it, his reason for his appeal is purchasing the lot for a given amount of money and it could not have increased by some other amount of money and it's irrelevant, as far as all the reasoning we've been using tonight, based on the assessment having been back-dated to 2009. So I would be prepared to vote on these. I'm also prepared to not vote. I'm prepared to say the applicant just did not show up and consider them withdrawn; basically we would consider these two appeals withdrawn by virtue of the absence of the appellant.

Councilman West: But in my mind, these two are done according to the way everything else was done.

Councilman Garde: Which means you would be prepared to vote on it, as presented, in writing, even though I would be prepared to vote, based on the written documents. I would also be prepared to say that these have been withdrawn by virtue of the absence of Mr. Webster. But since he told us he'd be in Florida, I think I would prefer to actually vote on the basis of what's written from their attorney.

Seth Thompson: That's certainly fine. It doesn't prejudice Mr. Webster. He can come back next year and file an appeal, as well, so it's whatever the Council's pleasure.

Councilman Garde: In which case, I make a motion to reject the appeal of Mr. Donald Webster in respect of 604 Union Street and Lot B Orchard Street.

Councilman West: I'll second that motion.

Mayor Jones: Discussion?

Councilman Garde

The relevance of his stated reason for appeal is a purchase price which, I personally, have called irrelevant in other discussions and even though it's a rather harsh term, would consider the same type of reasoning since it is not back-dated to July of 2009 and the presumptive condition that our attorney has reminded us, that the presumptive condition is that the assessment is correct as presented and the argument is irrelevant to a 2009 assessment.

Councilman West

I agree with Councilman Garde and Mr. Hickey's assessment of 2009.

Seth Thompson: I think you had a motion and a second, so those were two votes.

Councilman Garde: No, those were actually reasons; that was discussion I think; because we haven't had a vote.

Mayor Jones: Discussion. We haven't taken a vote.

Seth Thompson: Sorry, I thought I heard a motion.

Mayor Jones: My interpretation of Mr. Webster's appeal is that this was a piece of property that was purchased and then split. Once it was split, then it's assessed value, each lot became \$80,000, correct? These were not the parcels on the corner of Orchard and Union that were one parcel at one time?

Councilman Coté: He's not even making that argument.

Mayor Jones: Okay. I just made it for him.

Councilman Garde: In fact, near as I can tell, the only price that was paid was \$1. Those are the back-up documents that he paid \$1.

Seth Thompson: That is common practice, seeing \$1, \$10.

Councilman West: That's an estate deal.

Seth Thompson: Well, in the deed.

Councilman West: Yeah. Because I know that's happened in this town a mess of times.

Seth Thompson: I think a lot of it is because people don't necessarily want the exact price that they paid for a parcel to be recorded for time and all eternity in the Recorder of Deeds office.

Mayor Jones: Alright, so we have a motion and a second. Any further discussion?

Councilman Garde: Unless you knew something about this being too... I see the properties appear to be adjacent on the 235...

Mayor Jones: They are and I don't know when they were split. Were they sold split?

Seth Thompson: And the parcels reflect that they were split, the tax parcel numbers.

Mayor Jones: They were sold split.

Councilman Coté: The gentleman sitting next to Mr. Hickey, who I don't know his name.

Jonathan Larson: I work for \_\_\_\_\_ now and I did a lot of work here in Milton, during the reassessment. If you read the deeds that were supplied with this appeal, the properties in question were sold as two separate properties quite a number of years ago, but remains on the books in Milton as a single lot; probably because those deeds were never recorded. Then the property came to the current owner, in two separate deeds and was finally then, divided and the values of each one of these lots at \$80,000 is \$10,000 lower than many other comparable lots in town. So this is far from being an arm's length sale and besides that, the history of this property is very unclear, as far as the deed recordings go.

Mayor Jones: Thank you for that information. Councilman Coté you're next.

Councilman Coté

I vote to deny both of the appeals for Lot B on Orchard Street and 604 Union Street and I'll base it on the assessor's comments.

Councilman Kost

I going to reject the appeal based on the assessor's comments.

Mayor Jones

I agree to deny the appeal on the same basis.

Mayor Jones: Motion carried.

Councilman West: So you took Sam and me as a vote awhile ago? What we said was a vote.

Councilman Garde: What I said in the past, does stand as my vote.

Councilman West: And mind also.

Mayor Jones: Okay.

Mayor Jones: The last appeal here is from Sandra Dole, 525 South Spinnaker Lane. The reason for the appeal, tax increase code selectively enforced police cut backs.

Councilman West: Madame Mayor, I've got a question on this one. He's got on here that the land value at \$50,000; she's got on here, the assessed value of \$90,200 and estimated value of \$140,200 and she only paid \$75,000 for the lot. Now that don't make good sense to me.

Mayor Jones: In 1994.

Councilman West: It doesn't matter what price she purchased it for. If we go by the assessed value of what our assessor has done in 2009, I don't feel that this lady has any grounds to stand on.

Seth Thompson: Just for the record Ms. Dole isn't here.

Councilman West: No.

Seth Thompson: Councilman, I agree. I mean the use of town funds is a complete and the enforcement of it's Codes, are just very separate issues from the assessed value of a particular parcel of property.

Councilman Coté: Motion to deny.

Councilman West: I'll second that.

Mayor Jones: Is there any other discussion on this case?

Councilman Garde: No, I just want to...

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| Councilman Garde | If you don't mind, I'll vote first and on the basis of what Solicitor Thompson had to say that the reasons requested are not relevant to an assessment. |
| Councilman West  | I second what Councilman Garde said, that it's not relevant and agree with the 2009 assessment.   |
| Councilman Coté  | Deny and I agree with the comments by Councilman Garde and Councilman West.   |
| Councilman Kost  | Deny, I agree with the previous comments.   |
| Mayor Jones      | I also agree to deny based on the reason for the appeal, did not appear legitimate.   |

Mayor Jones: Motion carried. I thank you for your work. Do we have any other business before we get a Motion to Adjourn?

Councilman Kost: I'd like to ask a question of the assessor for my own education. We keep talking about you at 2009 is the base year. Now the lady here has an appraisal done, if she ever gets the real appraisal in 2012. We're going to compare it to 2009. Does that mean, that whoever does her work, is going to take the 2012 appraisal, use the

time value of money back to 2009, in which case, the number is going to get smaller, not bigger. Please explain that to me.

David Hickey: Yes. The relevant fact for her is to get the appraisal that was done when she financed it; which the cost is presumably higher than what she paid for it and then you could say by the time the reassessment went into effect, the appraised value had fallen down to that point. There's nothing to say that that wouldn't have happened and that shouldn't cost her anything to get a copy of the appraisal that was done.

Councilman Kost: I'm assuming she paid for it when she got her loan.

David Hickey: Right and I think she knows good and well that that appraisal was a lot higher than the \$1.5 million...

Councilman Kost: I'm using her as an example, because it seems to me, if someone buys a house today... or you want to compare a number today to a number in 2009, you better take today's number back to that number, to make an apples to apples comparison. Is that correct?

David Hickey: No, we have a set of rates that we use, the rate per square foot that we used in 2009 and this \_\_\_\_\_ out because there were brand new houses in Wagamon's West Shores today; and we're going to assess those at the same rate that we used in 2009.

Councilman Garde: That's for improvements.

David Hickey: The land didn't change.

Councilman Garde: Correct, so your land value is the consistent, uniformly applied land value and the improvements are based on the same square footage that you used. Poor Ms. Celia, she has no improvements, so we can't really do that.

David Hickey: She does have improvements.

**EVERYBODY WAS TALKING AT THE SAME TIME. I COULDN'T MAKE AN ACCURATE TRANSCRIPTION.**

Councilman West: There are buildings on that property, Councilman Garde.

Mayor Jones: I would like to clarify. Correct me if I'm wrong. Councilman Garde, there is a uniformity of land values located within the Homeowner's Association communities.

Councilman Garde: Yes.

Mayor Jones: Once you come out of those communities, it is then based upon a square footage formula which is used, for someone like myself. I live on Behringer Avenue. We're not in a community where each one is going to be consistent. My neighbor has less land than I do, somebody has more. We're going to be based on square footage. Is that correct?

David Hickey: I think there's a lot right across the street on the corner, across from the parking lot, that sold for like \$20 a square foot. So you know, we use that as a basis for a lot of the values up and down from there and I want to get something off my chest about this Heritage Creek and some of these... In my 40 years of doing assessment work, this question about the front footage on small residential lots like that, has never come up and if I was to do it over today, knowing what the uproar has been, I would have gone to a methodology like that; because you'd have just as many people coming in to say, well I've got a lot that's bigger, why am I being charged extra money, when I don't get any extra use out of my lot? It may be like what we just did last year in

Rehoboth Beach and we need to say, a certain portion of the lot is valued X and anything over that square footage is a lesser value, but is uniformly applied. Of course the magnitude of the dollars in Rehoboth Beach is a lot higher than up here.

Mayor Jones: In that example that you just used, how do you assess that triplex, that unit that sits right in the middle that has a little bit of front yard and a little bit of backyard?

David Hickey: If you're doing it by front footage, the one in the middle has 28'; the one on one side has 33' and the other I think would be 36' or 38'; so if you are using say \$1,000 a front foot, it would be \$33,000, \$28,000, \$36,000. Now the ones on the end would complain why is mine higher? Well you've got more frontage. If I was to do it over again, having to listen to it for the last umpteen years, that's probably the way I would proceed. I think, at the time, based on my 40 years of experience, the way we did it was the best way to proceed for that type of lot, in a standard, residential, subdivision. That's all the experience I'd ever had and once you all said lower them all to \$80,000; all of them had little minor changes in size, but I thought that we could uniformly apply \$80,000 and everybody's being treated equal and from an economic standpoint they were the same utility. I agree, they did turn around and start doing those complex lots...

Councilman Kost: Question. Do we have to show land and improvements? Or just one big number? If we left the land out and just gave them the big number, it would eliminate that entire argument.

Councilman Coté: We wouldn't have a lot of this.

David Hickey: I know and in Virginia, we're required to show land and building. I'm not sure that that's a requirement in Delaware.

Seth Thompson: It's not. Of course, we need to understand the methodology, so ultimately that comes out anyway; but somebody is going to say well how did you arrive at that number? And you're going to say well the land is this and the improvements are this. I understand your point. People are focusing on the trees and not the forest.

Councilman Kost: I'm used to dealing in market value. What's the total value of the property worth? Not what it sits on?

Mayor Jones: May I ask, how did you present that when you just recently did reassess Rehoboth Beach? Did you present them with two figures?

David Hickey: Yes. Essentially, we said the first 5,000 square feet was \$500 a square foot. You're talking about these same little lots down there in Rehoboth Beach would be \$1.5 million; not \$80,000. It's a world of difference.

Mayor Jones: I understand.

David Hickey: There are different areas in town here, down there it was like the farther you got back from the beach, we had to reduce your rate per square foot.

Jonathan Larson: There there was enough land sales to tell me, I can calculate this block based on this number and this block based on this number, this block based on this number. When you get into a development like Heritage Creek, the people who buy in first they don't have a prayer of getting their money back until well into the development and then when it's done and there start to be resales, then you can really look at 18 of these condominium or townhouse units sold and yes, they sell significantly

less than these other units for the same or similar square footage of building. So, okay, I've got to lower the land value; but until that's done, you've got to get some stability in there.

Councilman West: But, the ones that complained about the taxes, were tickled to death when they moved here, because the taxes were lower and they were the first ones to start complaining about the taxes.

Councilman Kost: You know what's interesting. Do you know what the difference in the tax schools were for those people? \$10. \$10 a year. That's what they were busy worrying about.

Councilman West: Yes. For some of them it was more than that, but then they started complaining here and that's why we're into what we're into now. I would like to know when they started showing the bills, that way; how many years ago that they showed the land value and the assessed value?

Councilman Kost: The point you made, that your house on a small lot is more expensive. That's the value, it's the total package. It's only one number and let's get rid of the land.

Councilman West: Because I was surprised when we did my mother's estate that the property next door with more land, was worth less than what my property is, and it's half the size.

Jonathan Larson: It's a matter of a lot is a lot. You asked about are your house lots done by square footage? They're not done by square footage, but if you look through the Town of Milton there's a dividing line at about a quarter of an acre. If the lot is under a quarter of an acre, two-tenths of an acre, it's valued at less than a lot between a quarter of an acre and a half acre. Like the lot on the corner that we just denied an appeal on. That had been at \$90,000, because it was one lot. It's now \$180,000, because it's two lots, you can put two buildings on it. Along the line of the three, instead of two lots, in Heritage Creek, he didn't divide those to give somebody a good deal on houses; he divided those to maximize profits. So a third of a third of a third is absolutely out of line. Think about valuing them that way.

Mayor Jones: And he's backed off of them in his new plans, because they weren't working for him.

Jonathan Larson: If they had worked, you'd have Heritage Creek full of triplexes. Don't give the lady with the commercial land false hope, because her commercial land is valued less than the downtown strip, the center downtown strip by a lot per square foot, but they're small little pieces of land; she's got 13 or 14 acres?

Councilman Kost: 10 acres.

Jonathan Larson: Okay, one acre is at \$10 a square foot; two acres are at \$7 a square foot; the rest is done at \$50,000 an acre.

David Hickey: Which is right in line with all the other parcels.

Jonathan Larson: The other bigger, commercial lots, when you go up onto Route 16, no water front are valued that same way; so even if you came in and you can find an appraiser to tell you anything you want, on an appraisal. You know that being in the real estate business, so it doesn't matter. So if she's consistent with everybody else, until you reassess everybody else, you better not cut her in half; or everybody else should get cut in half.

Councilman West: Yeah, because I'll be the first one to appeal and bring mine in line with the County.

Mayor Jones: Just so long as Council always understands the formula, that makes it easier to be able to deal with the folks who want to make the appeals.

David Hickey: Like you said, we always focused on the bottom line and unfortunately, we have to parse it out a little bit, because you do have vacant lots and you have improved lots. So now we've got to go back to our basic consistency, because this guy's vacant lot is the same size as this guy next door; so we've got to have roughly the same value on it; because the bottom line is he can sell his house and the lot in the aggregate.

Mayor Jones: Well I thank you both for being here tonight through this.

9. Adjournment

Councilman West: I make a motion that we adjourn.

Councilman Garde: Second.

Mayor Jones: I'm going to assume no discussion. All those in favor say aye. Opposed. Motion is carried. Meeting adjourned at 9:17 p.m.