

Milton Town Council Meeting Minutes
Milton Library, 121 Union Street
Monday, February 2, 2015, 6:30pm

Minutes are not verbatim

Helene Rodgville: Transcriptionist

1. **Public Hearing** – An Ordinance to repeal and replace Town Code Chapter 164 Entitled “Rental Licenses”. If unable to attend, written comment will be accepted at Town Hall, prior to the public hearing.

Mayor Jones: Mrs. Rogers did you receive any written comments?

Kristy Rogers: No.

Mayor Jones: With your permission Mr. Collier would you like to start this off before we call people to the microphone?

John Collier: Good evening, Mayor and Council. What you have before you this evening for the public hearing is an Ordinance that was rewritten. I'd like to go on the record as stating that first of all, this Ordinance was based on a review of surrounding communities' ordinances and while it contains no additional fees at this time, nor any recommendation of any additional fees, it does allow now for an inspection process of properties offered for rental. This is not out of character with the surrounding communities, particularly ones that I have relied on for guidance from Georgetown, Bridgeville and Milford, so with that being said that's the basis from which this was brought to my attention when I was first hired by the Town and it was one of those burgeoning issues of Ordinances that needed to be addressed, so that was what prompted this.

Jim Welu, 30263 East Mill Run: I want to thank the Mayor for having this public hearing on this issue, even though the Town Solicitor said it was not absolutely necessary, however, in the spirit of openness in a Democracy, I think that this should be continued to one more session and the reason I say that is I think all of the Landlords who you have records on, should have been notified of this meeting, in writing. It would have been a very simple thing to do and it would have given them all an opportunity. On top of that, there are 360 rental units in this community so far that have registered, which means that there are probably close to 1,000 or more tenants who are affected by this law, as well, with this Ordinance and I don't know how we're going to notify all of them unless you put a hanger on the door of every unit, or have Landlord's notify their tenants, because they have an interest in this, as well. I think for a residential unit to include a room rented out to somebody is an overreach. If I have an owner/occupied property and I lease a room in my house that should not be considered a rental unit under ordinary circumstances. My wife, deceased wife, who was an attorney argued this very issue in Tacoma Park, Maryland and owner/occupied properties with rentals were not considered under the rental law... I've been able to speak with two tenants, one currently in the Town of Milton and one who used to be in the Town of Milton and they are both adamantly opposed to having people come into their units, invading their privacy. That's a real strain on people if they are living quietly, having no problem with their unit and then to have some stranger come in for one minute, fifteen minutes, half an hour to inspect their unit, is a real invasion of their privacy. I, as a Landlord for the last 40 years, here and in Maryland, the primary goal is to keep your tenant as long as possible. Financially, it's the most opportune thing to do. You don't have vacancy factor. You don't have turnover. You may not be able to raise your rent every year, as much as you would if you were bringing new tenants in, but I have found that to be a very effective way to be a Landlord and to make sure that your property is such that they want to stay. I think one thing that could be done, that might be much more effective than an inspection once a year or as I read this, upon the application for a rental license, which means it would be

a one-time factor, as long as you have the same tenant in place. That would not be as onerous as having one every year, by the time you renew your license, which is not a new application, but I think something that could be done, because I'm concerned with the safety and the good being of a residential rental unit, is you could have a certification to be made at the time of renewal of the license; whereby the tenant and the landlord would take a checklist of whatever this chapter is of the Town Code and they would certify that everything is in order. If the tenant says it's not in order, then it's up to the Landlord to get it in order and indeed call for a town inspection at that point. I've got a couple of more things here. I'll give you copies of my _____. I can't read it all, I'm sure. I think there are two issues that others may address as well. There's a legal liability issue, if we inspect these properties as a Town and then something happens afterwards. That's something I think the Town has to take into consideration.

Mayor Jones: Thank you that makes a very good point.

Jim Welu: May I make one more comment?

Mayor Jones: Very, very quickly, please.

Jim Welu: This is a fiscal matter for the Town. With 360 units in this town and based on my experience with the inspector's in Maryland, you can consider that that inspector has to take an hour of his time, set up an arrangement to inspect it, to write up the report. That is three months of work considering five hours a day would be spent on doing this. So that's three month's out of one employee's time and I presume he's got other things to do, as well. Thank you.

Jeff Dailey, 211 Grist Mill Drive: The fact that we're having a public hearing before our regularly scheduled Council Meeting is a concern that I've presented to Mayor and Town Council numerous times. I think public hearings should be separate and I know we've had a First Reading, but again, why those most concerned, Landlord's in the Town of Milton, weren't alerted in some heads up kind of way, because this could be a good part of their livelihood, so I'm looking for consistency. I understand that this Ordinance change was not authored initially by Mr. Thompson. I also know that he reviewed it and I don't think he finds a great deal of trouble with it, however, I've read through it and I'm not an attorney. I'm a bit of a novice, but some of the definitions and the far reach aspect of the changes to the Ordinance, do puzzle me as well as concern me. I think this would have been, because it's a pocketbook issue, I think it would have been a marvelous ordinance change that should have been work shopped, an Ad Hoc Committee assigned to it. I would urge you to listen carefully to the public that's here, as well as get the public that isn't here more directly involved and postpone this. I've heard Mr. Collier say that he's looked at Ordinances in two other towns. That's fine, but I think we should be hell bent in this Town on listening to the public and certainly those most concerned by an ordinance change that has to do with pocketbook issues. The kind of enthusiasm and awareness that could have been drummed up, if this Council and this Mayor and been proactive would have perhaps doubled or tripled the number of people in this audience tonight. I think you need to consider this. Reaching out to the public, finding out what it is _____ and this public hearing stuck on the start of this meeting tonight, with little notice going out, is not the way we do it and you're looking at process and as Mr. Welu mentioned, we don't have enough staff as it is to enforce Code in this Town, from one neighborhood to the next, consistently. I don't know what we're doing. I've said it before. I don't see a vision thing for this Town. I think this Mayor and this Council have got to listen, assiduously to the people of this Town. Find out what the people want.

Mayor Jones: Thank you Mr. Dailey.

Jeff Dailey: Did you want to say something Councilman Kost?

Councilman Kost: No, I was just pointing out...

Jeff Dailey: Yes. I'm here. I'm still here. Councilman Coté, yes.

Councilman Coté: Yes, I do, not Councilman Kost.

Jeff Dailey: Yes, he was...

Councilman Coté: And you don't have to take it out on me.

Jeff Dailey: You know, I get short tempered and I've said this so many times that I'm more than curious to hear what you have to say. Thank you Mr. Welu, but I am at my wit's end. I may be the only citizen who is, but I am at my wit's end. Please.

Councilman Coté: There are others of us. I just wanted to address a comment that you made in one of your email dissertations on this subject. I tried to print it so I could read it, but my printer didn't want to cooperate. I wrote it down and you were talking about this ordinance and collecting the money and you wrote, is it because we are technically (or maybe not) BROKE? I don't where you would have come up with that. I really don't.

Jeff Dailey: As Treasurer you're taking that personally.

Councilman Coté: I'm taking offense as the Town, because you made that remark and did nothing to find out about it. Now, we've had conversations before where you've said, even if I don't think it's true, if somebody else said it I can pass it on.

Jeff Dailey: Sure. Sharing information.

Councilman Coté: This is not true.

Jeff Dailey: Okay. We just had a property tax increase that hurts many people. Okay? There must have been a reason for that. We're not flush with funds. I'm sorry.

Councilman Coté: How much money does this town have?

Jeff Dailey: Councilman Coté I'm not here to talk about that. It's a public hearing on an Ordinance. I want to know, what was the impetus for putting this at the top of the priority list and why are we moving forward in this matter, without a workshop and without going to the people who this most affects? And yes, I have neighbors who said, Jeff, would you look at this ordinance? And I looked at it and it's a far reach, in my opinion. And that's all I'm saying. And I don't think our Town is flush and I'm sorry but we just lost out on a way to get dollars; which makes us at more of a disadvantage. Everybody knows it.

Councilman Coté: I'll agree to disagree with you on that comment, because I'll agree to disagree with you on that comment. All I'm addressing is the fact that the Town is not broke.

Jeff Dailey: Good.

Councilman Coté: And I have no idea why you would say something like that.

Jeff Dailey: Because we don't have a Water Commission that is putting together a plan to grow our water system. We are not putting another Referendum in front of the people. We're just standing still, because we defeated one twice, doesn't mean that you look to the future. That costs money and who will be _____ eventually.

Councilman Coté: Who defeated that second one?

Jeff Dailey: Mic.

Mayor Jones: Thank you Mr. Dailey. Thank you Councilman Coté.

Dr. Michela Coffaro, 608 Union Street: I'm not going to make a joke about standing. I'm actually in shock that this should be not only a high priority, but we have a Comprehensive Plan, we're supposed to be talking to each other. We're supposed to be making a Plan and I'm trying not to take this personally, because when I talked about my lot, the whole law changed and now that I've had one year of respite, because of sharing expenses, now the laws may change again. I'm trying not to take this personally. I honestly have to say that Milton has a hostile environment, at this point. This is really, really sad. Here we have something that I don't even understand why you're bringing it up. You're coming into people's homes. We live in

these homes. We help people. If you're single and living in your home, you're okay, but if you're married living in your home; all other categories seem to be a "rental" and it's really... I'm shocked and I'm disappointed. So that's where I'm coming from. I'm not going to even say the particulars and I am trying not to take it personally. Okay? So please, as a Council, would you just vote this down. Please. I'm still here.

Mayor Jones: Thank you and what I want to tell you and anybody else who wants to speak tonight, is that's what we're doing here. That's what we're listening to. This has not been discussed fully. We have not made a decision on this. This is not necessarily a document that will be adopted, that's why this opportunity is being given to the public.

Dr. Michela Coffaro: Well, maybe next time we could say things like rubbish and going around neighborhoods and what it looks like and taking care of that as a project. Maybe those are the things that we need to do, as opposed to this kind of thing. Thank you.

Mayor Jones: Thank you.

Seth Thompson: If I could chime in from the legal perspective. I'm not quite sure Mayor and Town Council of how you want to handle it, but as issues come up, I'm more than willing to address them. I can jot them down and we can discuss them at the end of the public comments. I don't know if it might be beneficial for me to chime in to avoid repetition...

Mayor Jones: It might be now.

Seth Thompson: We've had a couple of things come up and I would echo the sentence of the Mayor, that the public comment is really designed so that we get a good result for the town. Nobody's infallible and things can always be improved upon and really that's why we have the public comment. Some of these issues are definitely worthy of debate, so it seems to me that one issue that we need to consider is do we consider rental "rooms" or should the proposed Ordinance be changed to not include rental "rooms" and to just include a full dwelling? I was trying to think well why are we doing this? I think, at least for me, a lot of these ordinances are based on the need to avoid absentee landlords, letting properties decline, renting at a very cheap rate, instead of fixing the unit and then those tenant's, of course, run the risk and the building's a public safety hazard and those sorts of things. I don't know that that same rationale applies to when an owner occupies the unit and rents out one of the rooms. It doesn't seem to me that it applies as much, but those are the kinds of issues that I think we really need to talk about and it would be helpful to hear from the public on. Mr. Welu's comment in terms of owner occupied properties not being within the scope, I think legally the Town is allowed to license those units; for instance, the State Landlord/Tenant Code applies to those, so I don't think it's a jurisdictional issue, but it might be that the Council has a different idea in terms of what's good policy. It could be that it doesn't make sense for somebody renting a single room, to have to pay a license and have an inspection. That's really for Council to decide and legally, I think, either way is justifiable. There was a mention in terms of fees. This really shouldn't be a revenue generating tax. The fees need to be in proportion to what it costs to administer the program. Now that doesn't mean on any individual inspection, or any individual application the Town has to track exactly how much time each employee spends on it and each slice of paper and that sort of thing, but the overall fees need to be somewhat commensurate with the cost to the Town of running the program. It shouldn't be a hidden tax. There was a question, I think Mr. Welu raised it, in terms of liability and if you think of it in terms of the way we inspect new construction, that's really more what it is. There isn't what we would call privacy between the landlord and the tenant and the Town's inspector. The Town hires an inspector. The Town uses an employee to do that inspection. The inspection is really to safeguard the public buildings. It's not on an individualized basis, so I think to not engage in some level of inspection for fear that somebody is going to say well you missed this, therefore I'm going to sue you, and Delaware

Law says anybody can file anything; but I don't think they're going to be very successful in that. Number two, I think that kind of notion will lead you to never do anything. Isn't that the end result of that thinking? If we engage in anything and we might not do it exactly right, we're going to be sued. These are the things that we need to think about. There was a notion in terms of privacy. The way that I read the ordinance, the inspection is to be done every time somebody applies for the license and that's once a year. It could be that the Council says, same tenants, same building, no need for an inspection and we can draft that. We can do that. Those are the topics I've heard so far and if anybody has any questions along the way, definitely let me know, but hopefully we can really engage in a good discussion and the end result will be a better product for you.

Mayor Jones: Rep. Smyk also called me yesterday and asked if contacting the fire company was also an angle and whether or not it is a public safety issue. So that was something that he say might behoove something that we wanted to inspect and look into before that plays into them knowing what is occupied and who's in there.

John Booros, 115 Broad Street: Council you've pretty much covered a lot of the bases that I was going to speak on tonight. I looked back at the last three administrations. I look every Friday in the Cape Gazette and I see the ads for homes in Shipbuilder's Village, one on West Shore Drive in Wagamon's that the woman actually offered to pay for the irrigation water, because she didn't want her grass to die when she rented her home out. This Town never went to that woman with a picture of her house in the newspaper and a For Rent ad and asked her to get a rental license. This Town has never enforced the people that are renting their houses out. The ones that are actually putting For Rent signs in their front yards. This Town has never gone to them and said you can't rent this house out, you don't have a rental license. We wait until after they've rented the house out and then they come to the Town for rental license? The Internal Revenue Service allows them to deduct the expenses of that rental property while it's sitting there empty, as long as it's actively up for rent. This Town should require anyone that's put a notice in the newspaper, a sign in the front yard to have the license before they try to rent the damn property. Let's get serious. That's what this Town needs to concentrate on. They haven't done it for the last three administrations. What you don't need to be doing is what Mayor Newland's tried to do three years ago, was to redetermine what a family unit is by striking out the definition of a family; which by the way, for somebody trying to define the family, I thought they did a pretty good job, whoever wrote that into the original Ordinance. But to strike it out completely and now call me a landlord, because a buddy of mine and his wife split up and he's living in my house for a few weeks until he finds another place to live, you're leaving it up to one person, or this Council, maybe it's to seven or eight people, to determine what a family is in the State of Delaware. When Mayor Newland's came up with this three or four years ago, gay marriage was not allowed, yet there was somebody on this Council that said, oh no, that's my fiancée. Well there was no gay marriage in this State, so _____. Either you're going to pay the rental license or you're not going to pay the rental license. You have couples living... and I talked to somebody on Council tonight, where the couples have different last names. What are you going to do, go and ask for their marriage license? What are you going to do? There's nobody that I see in this damn room that can determine, or that is arrogant enough to determine what a family is at this day and age. I have a roommate. We have a four year old foster child that's being placed with us. We are both licensed foster parent's in the State of Delaware. We are both Foster Father's. We are not partners. We are friends. We are roommates. I own the house. He doesn't, but we co-parent a foster child. Is that a family? The State says it is. But there's nobody in the front of this room, including you, Mr. Thompson,

that's going to determine what a family is at this day and age. Okay? And to strike what was in here, which was the broadest definition of a family, two or more people sharing expenses. Those are roommates. Families that are together because they can't afford the house by themselves. Are you going to lose the house or bring in a buddy to help share the expenses? But to strike it out of here and then put rent a room, rent a room, rent a room all through this thing, it's in here twenty times. Rent a room, rent a room, rent a room. That's crap. Okay? And last, but not least, the thing about having to get a new license when you sell the rental property to the next person and the license doesn't transfer, well unfortunately, the lease to those tenant's does transfer with the sale of that property. So how you intend to throw that tenant out when the property is sold, because the new owner didn't go and get a license and have the house reinspected; same tenant; same house; different owner. This Town has to reinspect that property, but the law allows that lease to transfer with the sale of that property. This is crap. It never should have passed legal counsel to get to the floor tonight.

Mayor Jones: Thank you.

Seth Thompson: Just to address some of the legal questions that were raised there and I guess I'll work backward and forward. In terms of throwing the tenant out and the assignability of the license, the Town's recourse isn't to throw the tenant out. That's really the Landlord/Tenant relationship that they have to deal with and Mr. Booros is right, that a lot of properties are sold with the lease transferring as well, because the property is really being sold, subject to that leasehold interest. Of course, some leases provide for the lease to terminate if the property is sold. The Town's looking to the landlord's. The Town's not looking to the Tenant's on this. If that scenario plays out, it's the Landlord that's in violation of the Ordinance and the Landlord is the one that faces the fine. The remedy wouldn't be to evict the Tenant. That wouldn't be what the Town would do.

John Booros: Talking about the reinspection of the property. That's what I'm talking about, the reinspection of the property. So you have the Tenant that's been living there for five years, they've got two years left on their lease and you're going to come in when the property is sold and reinspect it and it doesn't pass. What are you going to do with that Tenant?

Seth Thompson: Again, the focus is on the Landlord...

John Booros: The focus is on a property that doesn't pass inspection right now.

Seth Thompson: Right and it's the Landlord's responsibility to get the property into compliance.

John Booros: And the Landlord doesn't, where does that leave the Tenant?

Seth Thompson: Again, the remedy is to go against the Landlord, is to fine the Landlord. In terms of the issue of enforcement, enforcement isn't really a legal issue, although of course, we need to consider it when we're drafting Ordinances. The Ordinance's on the books that nobody enforces, don't do much good. It's the boy who cried wolf. That's not what should happen. Again, that's not necessarily a legal issue, but I don't the exact reason for all of the drafting, but I suspect this is designed to put the Town into a position where it can actually enforce this Ordinance. The issue of the definition of Family. I think the Town is getting out of the business of defining a Family. What we're looking to do is to look at the crux of the relationship, the Landlord/Tenant relationship. Somebody could conceivably rent their property to their brother and that would be a perfectly fine Landlord/Tenant relationship. So what we're doing, is there needs to be the bargain for exchange here. I will give you X amount of dollars. I will give you other consideration. In exchange, you are giving me the right to possess this property for X amount of time.

John Booros: Counselor, that definition occurs in two other places in our Ordinance and in neither one of those are _____ tonight.

Seth Thompson: Right.

John Booros: So you're yanking it out of one, but you're _____ it in two. So don't stand here and tell me that it's the Town trying to get out of the definition of Family, because it's still in there in two other places and you don't remove one, without removing them all.

Seth Thompson: I'm just trying to focus on the fire that's in front of me, so tonight's issue is the rental property and that's how I view it. Again, we're looking to see what a Landlord/Tenant relationship is and to deal with that. We're not necessarily looking to define what a Family is through this Ordinance.

Mayor Jones: Question and I'm not sure if we could ask it of Mr. Collier or Mr. Thompson. The rewriting of this Ordinance, does it benefit the Council's ability to view the Ordinance more consistently and apply it more consistently and does it benefit the Tenant; does it benefit the property owner to have this in writing, so that they understand what is expected of them? There has to be a benefit. It should be a win/win situation.

Seth Thompson: My view is it's always helpful when people know what the rules are. Your current Ordinance, the question is okay, how do we really enforce it? Is there a right to an inspection? You could argue that there's an inherent right to inspect, because how else would the town enforce the Ordinance? I view this as attempting to lay out a procedure that everybody knows what to expect, when they decide whether or not to rent a property and how they're going to go about doing that.

Lorraine Wasserman, 244 West Shore Drive: I think as a matter of safety of the town and safety of our resident's and tenant's, we need to establish licenses, because of Shipbuilder's and other ill-kept homes, that are up for rent, they really present a danger and a good example is about two weeks ago there was a horrible fire right on Mulberry Street. We found out that two renters were up in the room and the mattress caught on fire. They had no smoke detectors and this is a thing that could have been prevented and the man right here got into trouble because there were no smoke detector. We need to enforce licenses. I know it's painful, but we must do it. We must move ahead. This is not a Salvation Army. It's a growing town that's on the move and I encourage and I plead with you, please pass this.

Jeff Dailey, 211 Grist Mill Drive: Madame Mayor, you mentioned the Fire Department. I missed that entirely. In what context was the Fire Department mentioned?

Mayor Jones: Rep. Smyk just simply said that the Town may wish to reach out to the Fire Chief and ask if this ordinance provides any added measure of safety for someone that may be in one of the buildings.

Jeff Dailey: So, just reaching out to the Fire Department for input, might be advisable and I agree with that entirely. Also, this Ordinance could be enhanced for the precautions and safety measures that my neighbor Lorraine mentioned, with just educational programs about smoke detectors, the liabilities of Landlord's. If you own a property and you rent it, you have to have a different kind of homeowner's insurance, then you do on your own residence; unless, of course, you're a resident landlord who's living in the house and who's renting out a room or sharing expenses; something that we, don't need to be sticking our noses into. So, maybe just education is what we need to do; better communication with how many of the 50,000 citizens of Milton. Oops, I made a mistake, a much smaller number. It's time that this Council figure out how to speak directly to the citizens of this town. We've watched the Comprehensive Plan involve more citizens than have ever been witnessed in this town's history, to my knowledge and I wish I had some of the older folks who can testify to that. So, why do we have these problems, when we have the same people getting up, hopefully representing the majority, but we'll never know because this Mayor and Town Council is not going to the citizenry.

Gwendolyn Jones, 204 Atlantic Avenue: I echo many of the sentiments by the people who spoke before me. I had a question and I'll bring an example; Michela came before Council I guess about a year or two ago, a couple of years ago, as a result of the Code Enforcer. He had given her a citation or something for having...

Dr. Michela Coffaro: No citation. I voluntarily came to the Council. I had been paying \$100 and whatever for years and I didn't have to, because I didn't understand what was in the Charter or the By-Laws, or whatever we call it. So nobody was on my back. It was me voluntarily.

Gwendolyn Jones: Okay, I stand corrected, but I don't know the relationship with Joe and Michela. I knew she's opened her heart and welcomed somebody who needed a place to stay in her home and this directly impacts the definition of a family in this _____ or anything. I don't know any details regarding that, but I'm glad that somebody like Joe, who's somewhat indigent, from the best that I know and Michela's opened her place so he would have a place to stay. I'm sure that she's not the only person in town who's done that. So, again, it comes to the definition of family; it comes to the definition of a resident, landlord, if you want to call them that, a homeowner who rents a room and once you start claiming we've got to do this for the safety of this, it starts leading down a very slippery slope, and where it's going to end. Now, I will begin to echo Jeff's sentiment's that I think this is a great preliminary start to discuss the topic, but _____ replacing, but I think inviting all people, whether or not they are on the books or not in and giving them the opportunity... I've been going to the website, or else I wouldn't have known about this. Last month, I did download the _____ ordinance thing, but I think the notice of such a public hearing could be put say in the water bill, or something like that, that reaches all the people who would be renting, whether they're living in town or out of town, to come to the public hearing and sending out something separate. I think that would be the most appropriate, so I hope this discussion doesn't end with this meeting and can be constructive.

Mayor Jones: Thank you.

Leah Betts, 113 Magnolia Street: Could I ask who set this up? Did you have a Committee or was it just someone in the office?

John Collier: Mrs. Betts, I wrote this.

Leah Betts: There was no discussion between other people, just you?

John Collier: I wrote this and I spoke with people from other communities.

Leah Betts: I meant locals. Excuse me, John. I meant did you talk with anyone local about the _____?

John Collier: No, Ma'am I did not.

Leah Betts: I do think, I'm in agreement with Jeff and Mr. Welu. I think that this should have gone out in the mail to every property owner or every person that has a rental license and explained, so that they would have the opportunity to review it in the future. So tonight, I do agree with them. I think it's a shame that we do have rental licenses. Everybody's talking about a rental license, but does our rental license do now? What does it pay for?

John Collier: Ms. Betts, I'd like to respond to that.

Leah Betts: Okay.

John Collier: If this ordinance is indeed passed, your rental license pays the salary of the gentleman that performs the inspection that makes sure that the units are in compliance.

Leah Betts: I realized that also, but I heard someone say, there will be no charge _____, not for the present time, so I was wondering if in the future it would be?

John Collier: There's no intent at this time to extend a charge currently the way the proposed ordinance is structured. The rental license fee remains as always, the same and the only time

that an additional fee would be incurred by a Landlord, would be once an inspection is scheduled, if they fail to meet the appointment, without properly canceling it, if they are found to be deficient in the area, if there's a second visit made to check on the correction, then there would be a fee involved in the second visit. The first visit, if somebody says you have to fix the window; the first time out, they'll see that the window is fixed, no charge. If we have to go back and there is a fee involved and that's how that's structured and that's to cover the time of the inspector.

Leah Betts: Is this for inside inspection, more than the outside?

John Collier: There would be reason to look at the inside, but the inspection would be considered cursory at best; we're more concerned with the exterior of the units. The big thing for the inside, for me at this point in time, from my personal standpoint is, that the place has heat, has proper electricity, there's a bathroom, a kitchen, a smoke detector and those things.

Leah Betts: I think the landlord understands that it's _____, if they do not have a smoke detector...

John Collier: I understand your point and I will agree with you, _____, but there was always the one and you just heard of an incident that occurred two weeks ago, where obviously there's a license that we didn't capture for starters and there was no smoke detector.

Leah Betts: I understand that, but I hardly think any person who ran a house without a bathroom and without the heat, I mean I just think... Heat. Why do they run a house without heat?

John Collier: Why would a tenant live in one without heat? I can't explain those circumstances. All I can do is look for a way to...

Leah Betts: As far as outside, I think we have a Code Enforcer that could go around and enforce the code for the outside and they should be doing that anyway.

John Collier: An attempt is made to do that. A lot of times, the biggest problems we have with rental units within the Town of Milton, from my understanding and my research is with absentee landlords, which we have a fair number of those; people who own property; they don't reside in town much like you do; look at it and have your neighbor's know that you have it and if you're not taking care of it, they'll point it out to you. We don't have that ability here.

Leah Betts: I agree and I think that's why each person, that owns property, should have been notified and sent a copy of this.

John Collier: I won't argue with that.

Leah Betts: Okay, thank you.

Mayor Jones: Thank you.

John Booros: I want clarification. I wanted to thank you Mr. Collier, because he is the first person in three administrations to actually check the Cape Gazette and the Coast Press and Craig's List and see the houses that are listed for rent and going out there and getting them to get rental licenses, so I didn't want to imply that it isn't being done right now, but it has been several years since it's been done. So, thank you, Mr. Collier.

John Collier: You're welcome, Sir.

Ted Kanakos, 106 Broad Street: I sort of came to this discussion a bit late. I have a few questions. When you talk about rental roommates and rental rules, does that include Bed and Breakfast's as well, in town?

Seth Thompson: They're specifically excluded from this ordinance, because they're licensed differently.

Ted Kanakos: How come?

Seth Thompson: They get a State license for Bed and Breakfasts.

Ted Kanakos: As well as the Affordable Housing or Milton Landing or Casa San Francisco and Luther Gardens and Luther Towers, we don't do anything with that?

Seth Thompson: I don't know how they're specifically... Mr. Collier, do you know how they're classified by the town? The ordinance expressly exempts hotels, motels, inns and beds and breakfasts.

Ted Kanakos: Now, how are we going to determine if an inspector goes in, I know one of the issues on the inspection is overcrowding? How does the inspector know? Does he count the number of shoes in the closet, if nobody's home? What I'm trying to say is how is this done and done correctly?

Seth Thompson: The overcrowding is really an issue in terms of your Housing Standards anyway, so that could be an issue even outside of the rental context; so I would probably end up saying the inspector needs to get back, look at 136, which is your Housing Standards and I believe it lays out the process for him to inspect.

Ted Kanakos: Number of people per house, per room?

Seth Thompson: It's per square foot, I think is how it's categorized, if I remember correctly.

Ted Kanakos: So if somebody has 12 children and an uncle living with them, 15 people, they wouldn't be allowed _____ one of their kids? I'm pushing, but I'm asking you, what these extreme incidences are? We have overcrowding, but that's because they're large families maybe. What do you do there?

John Collier: Mr. Kanakos, while not specifically stated within this particular draft, we have to rely on the Federal Standards as far as housing goes. Federal Standards allow for families, the definition of family, to be a large combination of unrelated people. For example, you could have a married couple and the step children of both couples and part of the reason that the definition of family was removed from this, was that first of all, it appears in the Housing Standards and it tends to be an item of contention. This ordinance really the intent for me when I worked on this thing, it was based on what I learned from other communities and a lot of times, the best way to do this, is instead of the identified as in license, let's identify it as a rental property. Now to answer another questions not necessarily posed by you, but let's get this out there. First of all, until such time that somebody puts a sign in the window, puts an ad in the paper, on Craig's List or something like that, I can't identify, nor do I identify that as a rental property, because they are not advertising for that. If I decide that I want to take on somebody as a friend in my home, that's fine and I'm okay with that. I'm okay with the concept within town. This is part of the reason why I chose to write family out of this thing, because it just tends to lend to the confusion of the ordinance. I'm not worried about who lives in the house. I'm worried about the condition of the house.

Ted Kanakos: Not the numbers?

John Collier: You reach a certain point where the numbers become a concern and that's addressed someplace else within the Code. Right now the concern behind this is the condition of the unit that's offered as available and it's standing within the surrounding neighborhood. My experience has been that in some blocks of the town, the absolutely worst unit on the worst house on the entire block is the non-resident landowner unit and it normally, in the larger scope of things that is the house that takes and pulls down the value of the surrounding units.

Ted Kanakos: I would agree with you on that. I have one last question. Before this ordinance was initiated, how many calls did the town get by tenants having no heat for rental properties?

John Collier: I can't tell you that it's ever been a problem. In my tenure with the town, there's never been a call, but of course you have to understand, I started at the end of October, so I've

been with the town a very short period of time and I have no record of anything else, nor did I review any records to see how many came in for that specific issue.

Ted Kanakos: So what was the motivation for this particular Ordinance? I realize its safety and you might have one fire and someone who did not have a smoke alarm... I would think that there are many people who live in their own homes that don't have smoke alarms that work. The issue is, what motivated this sort of social welfare type of ordinance to go into someone's house and check it out; when there didn't appear to be any need for it?

John Collier: My motivation was that this was identified as being an area of concern and I was given a list of areas of concern.

Ted Kanakos: By whom?

John Collier: By the Town of Milton, my employer.

Ted Kanakos: Your employer, specifically whom? Was it Kristy Rogers who you work for, or the Mayor wanted this? Who initiated this concept?

John Collier: I work directly for Mrs. Rogers.

Ted Kanakos: Okay and where did Mrs. Rogers come up with this concept?

John Collier: That I cannot answer. I don't answer for Mrs. Rogers.

Ted Kanakos: So it's a circle. Nobody really knows, but it seems like a good idea?

Kristy Rogers: During Council Meetings I make notes and these were points to be followed up on since Mr. Davis resigned from the Town of Milton. This was an item that lingered from last spring, when the rental ordinance had come up for discussion. The point you had made prior to this was, I did receive a few phone calls at Town Hall, from tenants of not having heat, not having hot water, they could not get their landlord to make those repairs on the property.

Ted Kanakos: And we could not do anything about those one or two landlord's over the last few years, unless you had an ordinance and went into everyone's home?

Kristy Rogers: The ordinance helps enforce compliance with Housing Standards.

Ted Kanakos: I have a few rentals in many towns and it's done this way. They don't inspect it, but they do send me their license, plus a head fee. I have to identify everybody in the house and then there's a checklist of what I have to put down. Have I changed the batteries? Have I done this? And I also give the tenant's the phone numbers to call if there's a problem. Nobody has to go into the house. The tenant's simply are made aware of their tenant's rights. This is attached to my leases. I always put these on my leases. It would be foolish as a landlord not to make sure that they have smoke alarms that work, but they don't come into my home. And, of course, since it's a rental, I have a different type of insurance and every so often the insurance company comes for their inspection; not only in the house, but they check to see the condition of the sidewalk in front of the house and lots of things. If there's moss growing on the roof, the roof's not good, the doors don't work, and they see a lot of these that have _____. But what I'm saying is that never _____ is the need to go into someone's home and invade the privacy and it seems to be very effective. Thank you.

Mayor Jones: Mr. Kanakos, perhaps you would be willing to share such a checklist as an example and put it into Mr. Collier's hands, so it's just one more option to look at. Thank you.

Ted Kanakos: Sure.

Mayor Jones: Is there anybody else that would like to speak on this issue?

Jim Welu: Since some people have talked twice, I think I'll get up if it's alright. I think the safety issue is a very important issue. I meant to bring a sample with me tonight, but I forgot. You could now buy three smoke detectors that have ten year _____ removable batteries in them for \$50. That's \$17 a smoke detector. You don't have to buy ten years of manual batteries at \$1, \$1.50 apiece, so it almost pays for itself and tenants cannot remove the batteries, owner's

cannot remove the batteries and I think it's something maybe the Fire Department may want to encourage people to _____. Because that's more of a nature problem with the smoke detectors, people just take the batteries out when it starts to beep. Instead of replacing the battery, or they'll do it next week. This one you've got to keep it there for ten year's and it might be a good thing to have the checklist for landlords; if we do anything on this, when was your ten year battery installed? It's time for you to think about replacing it. One thing that Mr. Kanakos mentioned, I have real objection to and tenant's I have that I've talked to, have real objections to, is what in the world does the government need to know the names of the tenant's in any rental property? Next thing they'll want is the Social Security Number, fingerprints, things that the Police Department would have to get a warrant from a Judge to be able to get that information. I think it's really overreaching and I think maybe what Mr. Collier should do is set up a workshop to deal with this issue. Some landlord's, some homeowner's, some tenant's on this committee, to review what works and what makes sense; that will do the most good for the community, for the good of the tenant's and for the good of the landlord's. My one misgiving I have about the whole thing of inspections and I'm just going to use Mr. Collier's words, if I may, you were saying I'm okay with this. I'm okay with that. As I mentioned at the meeting the first of January when this came up, I have property where we only do inspections every three years. In 40 years, I've had 11 or 12 inspections and nothing's changed in the house, but each inspector comes up with something different, at least one or two things that the other inspector's didn't. Oh you need to do this. Oh you need to do that. Fine. But it's all subjective. If you're going to have criteria, you have to be fairly objective. I think we should be very careful about what the criteria should be. I think a checklist, my original suggestion at the end of the meeting was to have maybe a checklist, maybe based on the Housing Standards that a landlord and a tenant could certify to, no inspection, they certify to. If they have a problem that they can't say yes, I have a working stove. I have a working refrigerator. That would be checked off and that would call up for the town to come out and reinspect at some point and say, have you got a working refrigerator in your house?

Mayor Jones: Thank you, Mr. Welu.

Bette McGrath, 157 West Shore Drive: This is sort of an attempt to clarify something. I'm not good at reading legal documents. I find it very intimidating, but people who got up earlier and were concerned about the language in this impeding their ability to invite someone into their home and share expenses with them. Mr. Collier after a later question said that if the unit was not put up for rental, advertised for rental, that it didn't come under the parameters of this, so that I'm wondering if that... That's how I understood you to respond to a different question. So what I'm trying to find out is, does that solve the question for people who are concerned where they have invited someone into their home and it wasn't a matter of advertising for rental.

John Collier: That would be generally how I explained it, yes, Ma'am. Again, I think that there's a certain line that you cross and at this point the two particular incidences that were described, as I recall them, neither one of these people offered this as a commercial venture, so to speak. To extend an act of kindness to a friend in need or indeed, I don't see the point in me saying you've got to have a rental license because you were nice to somebody that needed something.

Bette McGrath: Well, my question is, is there something in the document that led people to feel that that was the case? I started reading it today...

John Collier: I cannot say that that's conveyed in exactly those terms. Like every other document, they're subject to interpretation.

Bette McGrath: So one of the things then to consider, because it seems that you're in agreement and I don't know if anybody else would not be in agreement, with these sort of sharing arrangements, kindness arrangements, that if there are questions, that that be one of the things that can be addressed in rewriting this document, or reexamining the document, that that would be made clear; that if it's not a commercial venture, that might be a very good way to express it, that this doesn't apply.

John Collier: Generally, that would be my understanding of why we had this public hearing, was to take public comment. You take all the public comment into consideration to try to refine the document and make it the best document that we could. There had to be a baseline and I wrote the baseline, so now we've got the comments and I'm sure the document will be placed back on the table for additional consideration at this time.

Bette McGrath: Okay, I do want to just comment on that, the things that people have said before, that it might have been wise to do more outreach before it was presented here, because we ended up with a lot of hard feelings, tonight; which might have been avoided if there had been outreach prior to the document. It's not an easy thing. Everybody's trying to get a job done, but at least that's something to consider for the future.

John Collier: Thank you.

Mayor Jones: Anyone else.

Jeff Dailey, 211 Grist Mill Drive: The public participation will remain open? Number six on the agenda?

Mayor Jones: Are you asking?

Jeff Dailey: Yes.

Mayor Jones: Yes. We will close this portion of the public hearing at 7:35 p.m.

NUMBERS 2 THROUGH 5 WERE NOT ON THE RECORDING – SUPPLEMENTED BY KRISTY ROGERS

2. Call to Order – Mayor Jones

3. Moment of Silence

4. Pledge of Allegiance to the Flag

5. Roll Call – Mayor Jones

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

6. Public Participation

Jim Welu, 30263 East Mill Run: Last fall the town seemed to be dwelling on the issue of a public hearing by Planning and Zoning, as called for the Overbrook Town Center application at the end of Cave Neck Road. I think the town as a whole, and the Council, should really consider this as a project that has a potentially dramatic effect on the roads in the Town of Milton. The State required a Traffic Impact Study and as we know from that last discussion of the Comprehensive Planning Committee had, it's a specific site evaluation. They go up two to three roads past the project. They went out as far as Hudson Road on Cave Neck Road. Based on my experience and my driving, I look for the easiest way to get someplace. I don't care if it's

a little longer and a lot of people are going to be coming down Route 16 to get to Rehoboth Beach on the weekend. Route 1 is going to be so backed up with this new Town Center, if it is built. You're going to say I can cut through Route 5, through Milton. I live on Cave Neck Road. I can get on to Dairy Farm Road. I can get on Route 9. I can get down to Rehoboth. I can avoid all of that congestion. I don't think the Traffic Impact Study that the State had called for, looked at any of these implications of how the traffic is going to affect the Town of Milton. I think we need to ask Planning and Zoning or the State DelDOT, to do a study of the impact on the Town of Milton with this huge project. To set us aside and this is only rumor, I was at my Homeowner's Association meeting Saturday. A gentleman got up and said he had been golfing out here at the local golf course with a couple of buddies from Rehoboth Beach and the word down in Rehoboth Beach is, Tanger Outlets is just waiting for this zoning to be approved out on Route 1 at the end of Cave Neck Road; then they will buy the property or lease it and they'll start moving Tanger Outlets out here. Then they can build condos in Rehoboth Beach. I think the Town needs to get the State, the developer, Planning and Zoning; although Planning and Zoning doesn't seem to be interested in traffic studies; they want DelDOT to do them. We need to get someone at the State level, the County level, to get a traffic study done of the impact on the Town of Milton, because we could be inundated from the south; people coming on Route 5 to town; Route 16 coming through town; either to get to the Center or to avoid it. Thank you.
Mayor Jones: Thank you.

John Booros, 115 Broad Street: I'll address one thing. The thing about the Outlets moving up. When I moved here in 1978, I bought a house in Rehoboth. There were no outlet malls and they were built in Rehoboth. They were never built to be there for that many years. The intention was always to move them up Route 1 to here; that's why they only have brick up this far and aluminum up the rest of the way. They had always intended to put the condominiums or townhouses or houses there, so that's something from back in the 1970's, late 1970's; nothing new. Okay? But I asked to speak just to urge my Council Members to kill this rental ordinance agreement tonight. Get it out of here and don't bring it back until there's something to show us and make sure that there's another public hearing. This was brought to my attention more than once in the last couple of weeks, that there did not have to be a public hearing. You all could have just brought it up here for a vote and had a vote and it is on there for a possible vote tonight, so you could say it was here just to kick it around the thing, but it's also on the same agenda for a vote and I wasn't going to take the risk that this was just a public hearing and you were going to kick it off a couple of weeks. I'm urging you to kick it off, don't bring it back until it's nicer.

Jim Welu: I second that.

Jeff Dailey: What John Booros just mentioned is exactly what I've said; but he's putting it a little differently. We have got to come up with a consistent way of first reading, then a public hearing, a second reading. We didn't have to have this talk tonight. You could have gone ahead and voted on what Mr. Collier wrote. Okay, that's not the way you move a town forward positively. The whole way we do ordinance changes, needs to be looked at. Okay, that's number one. The Comprehensive Plan looked at Route 16 and the dream would be that Route 16 would be a nice, wide avenue with service roads along it, almost a bucolic parkway that would channel beach traffic onto Route 1 and that was discussed even before this Overbrook Town Center was in the offing. We do need this study. We absolutely do need the study. Now, the reason why I asked a minute or two ago as to whether or not the public participation was remaining opened, is because I need some time to process this and it's only been five minutes

since we ended our public hearing on the ordinance changes, so what I want to say is Mrs. Rogers you said that the reason this came up was because you had heard a number of times, it being discussed, it being brought up, the ordinance changes. Great. You know there are towns where the Town Manager, in our case the Town Clerk, since we have no Town Manager, actually crafts the agenda. Now there are towns that do that and the Mayor and Town Council adhere to what the Town Manager, in our case the Town Clerk, puts on here. You can diffuse so much by being good PR people on behalf of what you feel is in our best interest. You have, Madame Mayor, the Mayor's Report. All you need to say to us, I'm going to position myself here is guys, we've got a problem with this ordinance having to do with rental licenses and Mrs. Rogers has pointed out to me that it's come up numerous times and we really need to address it and we're going to do this right. We're going to make sure that every pocketbook changes to the rental license touches, those people are going to be informed. If you always approach the public that way, you're bringing us along in your efforts to move the town forward positively, but for two years and two administrations prior, the public is always the last to know. We may not be, but we're not the brightest pennies on the block. You need to educate. You need to inform. You need to be Mrs. Rogers and Madame Mayor better at public relations. You are sinking yourselves because you're creating this adversarial role and I'm not the only person who gets up here and complains. I'm not the only person who writes Letters to the Editor and I will say this, when mistakes are made, you own up to them. You take responsibility and you apologize when mistakes are made and you know what, the public is very forgiving. They will say thank you, Mr. Truman. The buck stops with me. And I ain't runnin' for nothing'.

Steve Crawford: I was going to ask about the Town Clock and it's on the agenda, so thank you.

Ann Pratt: Nothing to add, thank you.

Gwendolyn Jones, 204 Atlantic Avenue: The mid-month Town Council meeting from January 21st I read a letter into the record; some of the Council people and most of the public were not there and in that letter I made an error when I mentioned Marion Jones as the person that made the motion; when in fact it was Marie Mayor. I presented Mayor Jones and Councilman Coté with the corrected letter. I'm not going to bother reading it again, but it is available. There are 25 or so copies are back on the table, for people who are interested and the rest of the Council for a corrected copy of that. Aside from the correction, I stand behind what I said, but it was basically the bottom line was I stood in strong support of these Ad Hoc Committee and something that that Police Ad Hoc Committee or something like it, is strongly needed in Milton and it's sad to say it is, but it is and I strongly advocate and support something like that on an ongoing basis. Thank you very much.

Dr. Michela Coffaro, 608 Union Street: I'll do it right this time, Mayor. The discussion about owner/occupied is _____ because it's not clear that you're making a differentiation between owner/occupied and absentee ownership and if you're concerned about absentee ownership, and if you're concerned about condition, then focus on that; but to take out the family, per se, then use new language about owner/occupied housing, as being different from the others, because you certainly, even if you are owner/occupied and you have a family situation, you can't have more than let's say four people that are a family; or put a number on it better; do something that makes a difference than this absentee owner, etc. But it's not clear, the way it stands. Politically, to bring this up at this time again, in terms of the Comprehensive Plan being in effect, it just didn't make sense.

7. Additions or Corrections to the Agenda

Mayor Jones: Council are there any additions or corrections to the agenda? Hearing none, do I hear a motion to approve?

8. Agenda Approval

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

Councilman Garde: Second.

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

9. Presentation and Approval of Minutes: August 18, 2014

Mayor Jones: You have a set of minutes in front of you that are here for review from August 18th.

Councilman Garde: Just a brief comment. I recuse myself from voting for acceptance of those minutes, since I did not attend the meeting.

Councilman Kost: I'm in the same position as Councilman Garde, so I will not vote on these minutes.

Councilman Coté: One small correction. Page 1. First line. Probably should say "not", instead of "no".

Mayor Jones: Anything else?

Councilwoman Parker-Selby: I too was absent and I have a problem with minutes, period, so I'm not voting, as well.

Mayor Jones: Okay. Councilwoman Patterson and Councilman Coté are there any other comments that you would like to make in reference to these minutes?

Councilman Coté: I have none.

Councilwoman Patterson: Me neither. I make a motion to approve the minutes from August 18, 2014.

Councilman Coté: Second.

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

10. Mayor's Report

Mayor Jones: Something for you this evening in the Mayor's Report is Mrs. Rogers has been working with the rest of her staff on the end of the year report to the public, which we will make available later this month. She and the Department Heads have worked diligently on some of the projections for 2015 that came first and putting those plans into motion and we are also sure some of that _____. Am I correct Mr. Collier, there are no defined plans for Planning and Zoning for a team meeting on the 17th?

John Collier: That is correct.

Mayor Jones: But the next meeting to deal with the Comprehensive Plan right now is March the 5th and that has to do with dealing with the Growth Area and surrounding property owner's. Right now Mr. Collier's still working on a room, so that time is not yet decided, so watch for that.

Councilman Coté: Question Madame Mayor or maybe to Mr. Collier or someone; I don't know who else would be available to answer this. If they're having another, more like an operational meeting, than to get information on the 5th, when will Council and I know at their last meeting they discussed a draft and they only discussed two sections. Do we have any idea when Council will see the draft?

John Collier: Councilman Coté I've been given no indication by the Chairman of that Commission as to when the Council may expect that, at this time, but I will reach out and ask and try to answer you personally.

Councilman Coté: Thank you.

Councilman Garde: And the rest of the Town Council, please. And while we're at it, Madame Mayor, at the last meeting you said you had initiated a request to get a formal delay from the State in our submission of the Comprehensive Plan. Can you please tell us where that stands?

Mayor Jones: That's right. I'm not able to tell you where that stands. It's only two days into February and I was advised by Connie Holland, the Director of the State Planner's Office that that would actually be reviewed by our legislator's during their February meeting. Now that was what she indicated to me, but that did get to her and in the deadline before December the 1st.

Councilman Garde: Wonderful. Thank you very much.

Mayor Jones: I will make myself a note and try to follow up on that vote. Mr. Thompson, do you know the date they meet?

Seth Thompson: The third week in March. I would think. The 17th.

Mayor Jones: Okay.

Councilman Garde: Many of us had heard informally that we would be permitted to submit this a little bit later, provided that there were continuous and obvious work on it; but that was informal and your request to formalize it, I think, is appropriate, because rumors have a way of distracting us from what is fact.

Mayor Jones: I also want to give a shout out and a thank you to Mrs. Rogers and her staff. I received an email today from Gregory Williams, an Environmental Scientist at DNREC, who has indicated that your "Community's Flood Plain Ordinance has been submitted to FEMA for review and has been approved. You should be receiving a confirmation letter from FEMA shortly. We appreciate your getting an ordinance adopted in a timely manner." So thank you very much for sending this on. That's great news.

11. Discussion of Written Committee Reports

Mayor Jones: You have in front of you a discussion of written committee reports. The first one in my package is Economic Development.

Councilman Garde: May I go to a comment on the later one?

Mayor Jones: Sure. Which ones are we reviewing? Just so we're all looking at the same thing.

Councilman Garde: I went through Economic Development Committee, Charter and Ordinance Committee, Historic Preservation and Administrative Report and Sam Garde has no comments on any of those.

Mayor Jones: Very good.

Councilman Garde: But I would like on Mr. Trotta's monthly report, to say that at least I would appreciate a little more detail on some of his comments. As an example, I'll read...

Seth Thompson: Sorry to interrupt you, but that's technically the next item on the agenda, so...

Councilman Garde: I thought we were on reports.

Mayor Jones: These are Committee reports.

Councilman Garde: Excuse me. I'm new at this and I didn't recognize the difference between them, so please forgive me. I apologize. I stand corrected.

Councilman Coté: I have a similar question to one that I've already asked, but I'm in a different group. Charter and Ordinance Committee. Those suggested changes will have to be processed through a public hearing and Council?

John Collier: That's correct.

Councilman Coté: Do we have any idea on the schedule of that?

John Collier: Currently those changes are in the hands of our Town Solicitor. As soon as he notifies me of the review, I will begin the process through Mrs. Rogers.

Councilman Coté: So public hearing first and then... I don't know what the...

John Collier: Generally, through my experience they go to the Council for comment and scheduling a public hearing. The Council is the one that initiates the public hearing.

Councilman Coté: Okay.

Seth Thompson: I would hope we'd be able to do that at the beginning of March, so if you have a second February meeting, you can have your drafts, with my comments and at that point decide to have a public hearing, or you can say what you will be doing. You need to know who changed this, this and this.

Councilman Coté: Thank you. Hopefully, we'll get to that. Just for information, we look at it, we have the public hearing, we do what we have to do to adjust anything based on the public hearing that we want to do and then it goes to legislature. What's the time frame, or what's a "normal" time frame for having those changes back and approved?

Seth Thompson: To complete the thought process, after public comment and we get the draft the way you like, the Council passes a Resolution and what's going to be attached to that Resolution is in effect, a draft bill and then we'll ask our Senator and our Representative to sponsor it. Usually the Senate takes longer, so some municipalities try to have their Senator deal with the bill first, introduce it as a Senate bill, because it will get read once in each Chamber; they then have a Committee Hearing in each Chamber and then they vote on the floor in each chamber, so that happens really twice and then it goes to the Governor. It's hard to predict exactly how long that's going to take, it just depends on what over big issues they're dealing with. I can tell you waiting until the end of Session is problematic, just because they're dealing with the Budget and that sort of thing. The other element is that if you wait towards the end of the session, technically the Governor has ten days to sign a bill, so they don't always present the bill immediately. If there had been a lot of other bills, they will then space out the presentation to the Governor, so his ten day clock doesn't start right away. In other words, there are a lot of variables. It would be, probably, a couple of months, I would say.

Councilman Coté: Best case average, or worst case? It sounds like worst case could be longer than a couple of months.

Seth Thompson: It could be longer than a couple of months. Best case is probably... and they take a couple of their breaks too, they take an Easter break and a Memorial Day break. Best case is probably a month. That's getting it through.

Councilman Coté: Well that's sometime in the summer.

Seth Thompson: If Council approves it, either in March or in April, it means you're looking at May.

Councilman Coté: Thank you.

Mayor Jones: Anything else on the Committee Reports?

12. Department Reports: Administrative, Code Enforcement, Project Coordinator, Police, and Public Works

Councilman Garde: Having spoken out of turn earlier, I would just like to comment on the Code Enforcement. I would like to see a little bit more detail. For example, he says spoke with Realtor about setbacks. So the Realtor called him on the phone and he had a two minute conversation, or was it a four hour meeting with knock downs and drag outs about it, so my suggestion would be... or the questions I asked were, why did he have that conversation, where was it, what was the involvement and what was the resolution? Then the same type of thing he

says, talked with contractor about permitting process for new homes. I would like to see a little bit more detail on that, on why this happened and was there a resolution and if so, what was the resolution? Those are my comments on that one. It's not terribly informative to just find out that Mike talked with a contractor about a range of issues.

John Collier: So noted.

Councilman Garde: Thank you. If I may on one other monthly report from the Project Coordinator. On the last page, it indicates that there was a discussion with the Town Engineer regarding the proposed changes to Chapter 188 and Chapter 220-20 and a meeting with the Project Coordinator and the Public Works Supervisor and the Town Engineer was to be scheduled. I would like to see an invitation to that extended to members of the Town Council, so at least we could participate in that, because if I'm available, I would like to attend. I have some family obligations during February. I may not be available, but if so, I would have been excluded and I think there are other members of Town Council who may be interested in that meeting, so I would request that an invitation be extended, as a courtesy.

John Collier: I can certainly make every member of the Council aware of when that meeting takes place.

Councilman Garde: And say we're invited to attend.

Mayor Jones: If we do that, there has to be a special notice made.

Councilman Garde: Just to attend the meeting?

Mayor Jones: It doesn't say it can't be done, there is something that goes with that.

Seth Thompson: If there is a quorum present and you're discussing town business, then technically you need to give seven days' notice.

Councilman Garde: I may have to rescind my request. I don't want to run afoul. Thank you Madame Mayor and Mr. Thompson. Just let me know when the meeting is. I'll invite myself.

Unidentified Speaker: Goes as a citizen, not as a Council Member.

Councilman Garde: It's harder to do now-a-days, Peggy, because I am a Council Member. I am a concerned citizen though, too. Then I have one question on the Police report. It's a simple question, from the number of complaints on page one, top line. It says 105? Okay? The back-up data would seem to indicate the answer is 110, so at the bottom of page two; so my question is am I confusing the months of this report? Is it simple typographical or administrative errors are non-issues, but in reading the entirety of the report, it does seem that there may be a typo there or else... the last time I asked a question, it had to do with I didn't understand what month it was for. This is for the month of December, although the documents indicate they were dated 11/30, so I may be incorrect, but the rest of it hangs together; the charges for the month are 74 and there were ten and 64, so that added up. All the rest of it added up, I just think there may be a typographical error in the number of complaints; but I don't care about typo's, what I care about is whether I am correct in assuming that the back-up data and the front data are for the same time period and not for different time periods, one being December and the other being November.

Captain Cornwell: I'll have to check with the administration.

Councilman Garde: Thank you, Captain.

Councilwoman Parker-Selby: I have a question for you, in reference to reporting lights out on a street. I understand there's a new procedure. I do not _____, there's a new procedure. Your department would call if something else...

Captain Cornwell: From my understanding, DPL has a system where you can go online and report it yourself. I've never actually done that, I think _____ has done and if you don't want to report it...

Councilwoman Parker-Selby: I asked it, because some people do not have Google. Fortunately, I do. Not everybody knows this.

Captain Cornwell: The problem we're running into is we used to contact Delmarva Power and Light and give them a specific list of the street lights that are out and it's changed now, we can't just call in and say that at pole number five digits over top of five digits at what location; it has to be done in a certain way now because Delmarva Power and Light is not doing it the old way and we can just call in our list, according to the administrative system.

Councilwoman Parker-Selby: So the citizens should be aware. Are they aware of the process that you do to report lights out. It's no longer call the Police Department.

Captain Cornwell: We're still reporting streets light out, so the night work officer's that go around and when they see a streetlight out they're supposed to document the pole number and location and stuff. We still report them when we're seeing them, but it's not done by phone anymore. It's apparently done on the computer system.

Councilwoman Parker-Selby: Because they also wanted the number on the pole when my mother would complain that the light was blinking and when they do that, they go out eventually, not at that time; and it was real cold and then a couple of times I came by and it was out. I was not going out there, in the dark, with a flashlight to look at light pole numbers.

Captain Cornwell: They're not very consistent on fixing them, because we've had a list of poles, lights out, and I noticed that the lights were still out, so they're not very fast at fixing the lights, but if you report it that night, it's not likely that would be fixed the next day.

Councilwoman Parker-Selby: It's been awhile and it's just the process.

Captain Cornwell: It used to be that you could call them and give them the information; now there's a new system. I've not dealt with it personally, the administrative assistant has, because she's the one that gets the light information and then advises them.

Councilwoman Parker-Selby: I guess that's something else that we need to inform _____ about; this is a big change from the other and if I'd known...

Captain Cornwell: Actually if you're a Delmarva Power and Light customer... everybody here is probably a Delmarva Power and Light, they should be notifying you about different changes. I'm not sure how we're notified. Things have changed on that and just by us calling it in, we can't...

Councilwoman Parker-Selby: That reminded me, when I saw these lights out and I'm thinking...

Captain Cornwell: We are reporting lights out to them, still, but it makes it easier, instead of us going out and someone in the community sees it, they can contact Delmarva Power and Light and report the light out themselves. It requires a pole number and the address where it's at.

Councilwoman Parker-Selby: Thank you.

Councilman Garde: Captain Cornwell you may have responded to this before, but on page two you have two terrorist threatening complaints. I don't recall what that means. Can you please enlighten us as to what terrorist threatening complaints are?

Captain Cornwell: Terrorists threatening is where it's either a threat to do bodily harm to someone, or threaten to kill them. So it covers from bodily harm up to death.

Councilman Garde: As a threat?

Captain Cornwell: As a threat, that's correct, terrorist threatening.

Councilman Garde: Okay, thank you.

Mayor Jones: I have a question about the Water Report. The Water Department. You have been in contact with Corrosion Control who's going to be doing the work on the foundation of Shipbuilder's tower. I know previously, Councilman Garde had some questions and some concerns about traffic patterns. Have all those been discussed and that's been taken care of?

Greg Wingo: Yes. The safety of the kids, we've taken that as number one, so we've taken care of the traffic pattern. To make it short, the travel in and out for the contractor's, they won't be able to travel in and out from the time period from 8 a.m. in the morning to 9 a.m. and then from 2 p.m. to 3 p.m., as the kids are coming and going from the school.

Mayor Jones: Thank you. Councilman Garde, do you feel that that addressed your question?

Councilman Garde: Yes, as long as the contractor's in agreement, I think that's fine. Supervisor Wingo has gone out of his way to have conversations and to set it up, as long as there is not a claim for an extra by the contractor, I'm confident that that will take care of the school children; but I learned over the weekend that there's also extracurricular activities that are ongoing in the fields; there's a 600 children's soccer league, that plays there after school, but it doesn't start until April; but there are kids who are preparing for that and there's some supervised after school activities and I would just like to make sure that the adults who run those programs, become informed and I think that's our responsibility, it's the Town's responsibility to inform the folks who run those really neat programs for area children that we're going to be working back there and what safety issues there are. Basically, they just need to avoid the area that we're working in.

Greg Wingo: I have reached out, that's the Henlopen Soccer Club. Anywhere in the area where we're going to be, they're actually, if you look at the football field, the Henlopen Soccer is going to set up towards Lavinia Street; so anywhere from any of the football fields this way, it's going to stay off open and cleared and I also will have a safety fence that Public Works is installing to keep kids, if they start wandering from out of that area.

Councilman Garde: I should have known you would have contacted them already. Thanks.

Mayor Jones: Thank you.

13. Finance Report and Revenue/Expenditure Report

Councilman Garde: I understand from an accounting standpoint, as soon as they go out we take credit for them and so a negative number will turn around and become a positive number.

Councilman Coté: Right. When the bills are sent out, because it's an accrual account, the bills are sent out and all of these are recorded, even though it's not collected yet. The collection period goes on over a few months and unfortunately, we don't collect 100%. It would be nice if we did, but we don't. What we have currently in front of us is through December and the summary of that is that the General Fund was basically -\$64,000, which will change shortly to a positive number. We borrow money from savings in these months, December and January to cover the bills. When the tax funds come back, we reimburse the savings and carry on. The Utility Fund had a surplus of about \$65,000. The December statements don't have all of the final audit adjustments and reversals posted to them, so once that's done, we're meeting on Friday with the auditor's to go over some of these details.

Mayor Jones: Also, on the money topic, we did learn just recently that the Governor's new proposed budget cuts the Community Transportation Fund and I cannot quote what number that was.

Kristy Rogers: It was 50%.

Mayor Jones: Fifty percent and Municipal Street Aid up to 40% to the municipalities, so that's something that we can get behind our lawmaker's and say that would hurt Milton tremendously, as it would many municipalities, but just to let Council know that that is what's being proposed.

Kristy Rogers: On behalf of Milton, I did contact Representative Smyk and Senator Lopez today about the decreased funding.

Mayor Jones: Thank you very much.

Councilman Coté: That decrease of Municipal Street Aid would come to about \$30,000 in round numbers. We could use the \$30,000, because that pays for _____. I see one of our participant's has left, but just as a brief summary, between the Money Market Accounts and CD's, there is about \$625,000 in the bank. Transfer tax has over \$400,000. In a nutshell, far from broke.

Councilman Garde: And with respect to the tax increase, as I was not on Council at the time, I believe we are required to have a balanced budget and in order to spend more money, to balance the budget, we were required to raise taxes. It wasn't an issue of catch up, it wasn't an issue that we are broke, it's an issue that we were required to make the amount of money we wanted to spend, equal to the amount of money we plan to take in. Is that not correct?

Councilman Coté: That's generally correct and we also have to do a little forward planning. We've neglected a lot of street maintenance over the years, due to lack of money, so some of that transfer tax money is basically set aside for street repairs, going forward and it may be over time... it's probably over time, it's not going to be used up all at once, but it's a little forward planning right now that may not have been done so much previously.

Councilman Garde: Thank you. I was just trying to make the point that a tax increase was not because we're broke.

Councilman Coté: Absolutely correct.

Councilman Garde: We had certain obligations to meet the other side of the ledger and our budget and we voted to make those expenditures and we didn't have enough money to do it, so we raised taxes. I was not on Council when that happened, but I believe that's the process. Is that not the process, Counselor?

Seth Thompson: That is the process.

Councilman Garde: Thank you very much.

Mayor Jones: Anything else to add under the reports?

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

- a. An Ordinance to create a new section entitled “Source Water Protection Area” within Chapter 220 of the “Zoning” Code (third reading)

Mayor Jones: I would like to introduce this evening Mr. Hal Godwin, the Deputy Administrator for the County of Sussex who offered this document and has been working with our town staff, as well as Councilman Garde. Would you like to come up to the microphone and also, right up front, we can call Council, because it's not something that has to be forced through and pushed through this evening. There is time to look at this. As a matter of fact, Councilman Garde felt very strongly about the possibility of a Council Workshop to better explore and understand this document before it's passed.

Hal Godwin: Mayor Jones and members of Town Council, my name is Hal Godwin. I'm here to help you as a volunteer. My wife and I volunteered some months ago to assist the Town with the Comprehensive Plan Review and Update and we've been working on that, along with your Planning and Zoning Commission members. The very first comments that we received from the State, back in April of 2014, were that there were a couple of things that the Town would be required by State Law to do, as a part of the Comprehensive Plan Update and one of those was to adopt a Source Water Protection Ordinance. Now, while I've brought the Ordinance to you, I can't take credit for authoring all of it, because what I did was, I simply got the Model Ordinance from DNREC, since this is a DNREC requirement; I got their recommended Ordinance that they suggest to Towns, to adopt and it did have some questions in it that needed to be

answered while you're drafting the Ordinance and I'll try to give you an example. There's a paragraph in the Ordinance that speaks about above ground storage tanks, for heating oil and things of that nature, and there's a paragraph that's going to address that in the Ordinance and it says that this Ordinance requires and it puts a hyphen and says that all above ground storage tanks must be installed and maintained in compliance with State regulations, that's Choice One. Choice Two would be that you could choose to increase the requirements on those above ground storage tanks by saying that all above ground storage tanks must have a dike built around them and a complete secondary containment system in place, so that if the tank leaks you will be able to catch that oil before it gets into the soil, because we're trying to protect the groundwater again. The whole purpose of this ordinance is to protect and ensure that the public drinking water in Milton is clean and healthy. That's the reason for the ordinance. Choice Three would be, all above ground storage tanks are not allowed, so you can't have your heating oil in an above ground storage tank. You've got to come up with some other way to have your energy stored at your home. When I went through the ordinance, what I came to issues like that that require that something had to be plugged in, I always went to the least restrictive choice, which gave you, the Council, an opportunity to turn up the regulations to more intense, if you chose to. The draft that you have in front of you only has minimum state requirements in it. That's the way I filled it out. It really wasn't that I wrote the ordinance, I simply filled in the blanks that the state leaves open for the Town to choose. Saturday, Sam came to my house and we went through this ordinance, in detail and Sam came up with some very good questions, particularly in regard to the map that we have to refer to. This is a Town map and it's also a DNREC map, but this map shows certain things that would be of concern in this ordinance. It has all of the town's wells identified and then it has a protection area around each well. It also shows areas that have been defined by DNREC as excellent recharge areas. That means that these are areas on the map that show that rainwater perks in there particularly well into your underground systems, which become your drinking water. These areas that are white show the excellent recharge areas. There also are yellow areas that show that these are identified as well head protection areas, like the wells that you're using are particularly recharged in these yellow areas. I'm not an engineer and I'm not an expert in this, even though I have worked with it some. Sam brought up some very good questions and to help address those questions a friend of ours from DNREC has volunteered to come tonight and he's here, Doug Rambeau. This is what Doug does all day. It is Source Water Protection, one of his responsibilities with DNREC. So for the questions that you have, I'll probably refer them to Doug and let him give you the answer, because if DNREC requires us to do this, why not let DNREC help us write it? That's basically what we're trying to do here. So, Doug, if you would come up, I'll introduce you and turn it over to you. One of the questions that Sam brought up to me, was how about if we have an existing home which is in this map and one of the features in the ordinance talks about impervious surface. That's a driveway or a roof. It's a surface that won't allow the water to perk back into the soil. What happens if a neighbor that lives in one of these areas wants to widen the driveway? That's an impervious surface. What happens if he wants to add a garage? That's an impervious surface. First of all you have a Board of Adjustment. You could appeal to the Board of Adjustment for a variance in those cases, particularly in situations where it's an existing residence. There's also an opportunity to add exemptions into your ordinance, so you could address these issues as the County has done in their Ordinance that would allow you to exempt

out certain properties that are already in place. But you don't put a hardship on the property owner, but these new regulations would be mostly applied to new sub-division applications and new projects that will be coming to the Town for consideration, so that in the future you'd be able to keep your drinking water as clean as possible, without harming any of your current property owners. Sam, I'm going to turn you over to Doug and let you guys ask questions.

Councilman Garde: Thank you very much, Hal. If the audience is interested, I think we have some 8-1/2X11" copies, which can be made available. First question we have, in one of the excellent recharge areas that is actually shown as not being inside of the town, it's just an error, in that we annexed in a portion of that at a time before I got on Council, but after the towns comprehensive plan maps were going. There is a Master Plan that has been approved by Town Council for that development, although no construction has started. So the way I read the draft ordinance is that the moment since there has been no construction, we would have to apply whatever rules we adopt for excellent recharge areas to that construction, whether it was in conformance or not in conformance with the Master Plan. Is that correct?

Doug Rambeau: That sounds correct. If the area is shared between the town and Sussex County, then you would have to look at the area that is in town and apply those constraints of your ordinance to that area and then the area outside, which lies to the County, would fall under _____.

Councilman Garde: And is there any chance of replacing certain of the listed excellent recharge areas, with some other areas where we think might be more appropriate from a development standpoint; although no engineering, no I assume, geologists, made some of these...

Doug Rambeau: Yes, the excellent recharge areas were delineated by the Delaware Geological Survey using an approved technology that has been written and tested across the State. What the map does not show is surrounding excellent recharge areas are good recharge areas, followed by fair, followed by poor. The excellent recharge areas are basically the top 10% quality sands that would percolate water down to the water table the quickest. Good is anywhere from about 55-60% quality sand, with some clays, up to that 90%, so the surrounding areas will percolate water quickly, just not as quickly as those excellent recharge areas.

Councilman Garde: But if I hear you correctly, we cannot, without some considerable effort, change or modify this document with respect to excellent recharge areas, because the geologists have already studied it, so...

Doug Rambeau: There is a procedure for challenging the boundaries of excellent recharge areas and it is detailed in a Delaware Geological Survey Open File Report and it has been used numerous times successfully to challenge boundaries of these areas. It has worked in Newcastle County. It's worked in Kent County and it has worked with projects in the Lewes area and other areas in Sussex County.

Councilman Garde: Have you seen this particular map?

Doug Rambeau: Yes, I have. In fact, I put it together for Hal.

Councilman Garde: Thank you, then the areas shown in yellow, I have assumed is what the rest of the document refers to as wellhead protection areas zoned for treatment and where the white overlaps the yellow, that would be wellhead protection zone three. Is that correct?

Doug Rambeau: That is correct.

Councilman Garde: So whatever we adopt that... zone two, would apply to this entire area in yellow? Now this is wellhead protection area, zone two. We get the choice to say that we don't want electronic manufacturing, specifically. Or to say whether we want junk, scrap or a salvage yard.

Doug Rambeau: And this table is totally editable by you, so it can be increased, it can be shrunk.

Councilman Garde: Understood. But again, to get approval, I think we can only put a Y, an N, or a C. Yes, No and Conditional.

Doug Rambeau: Right.

Councilman Garde: Okay, thank you. I wanted to make sure I had the definitions correct, but because there is going to be a development out here and there is a Master Plan, I'm concerned that the developer probably is unaware of today, that we are contemplating this and in an excellent recharge area, we would be able to have no more than 20% impervious, if I recall? The draft ordinance says excellent recharge area, I believe we have a choice of where that's going. The lease restrictive is 20% impervious. Now if his plans that have been approved go over 30% impervious, we're going to have to go unapprove those plans?

Doug Rambeau: No. Twenty percent is a recommendation. Once you start exceeding 20%, when you start looking at recharge facilities, you start having to increase the amount of recharged facilities or the area of a _____ that would put the storm water back into the sub-surface for augmenting the recharge for this lost three development. So the number can be adjusted and then you can put into effect requirements that would say if you exceed 30% of impervious _____ then you must direct rooftop runoff to the sub-surface...

Councilman Garde: Then... but you must have a management plan that manages the runoff water into such a way that it can find its way back into a recharge area.

Doug Rambeau: Correct.

Councilman Garde: Okay, well that's good to know. Are we allowed to write that variances may be given by the Board of Adjustment under whatever conditions, but that it's not black and white. You cannot exceed 20% here. You can't exceed some in the yellow area. The yellow area is an area of concern for all the citizens, because it's the major downtown road. The north/south road on the far side of the yellow is Behringer, the next one is Union, the next one is Mulberry and the school pops into this a little bit and there are some open areas in the center of our town that are covered by this.

Doug Rambeau: Right. It's awful hard to account for existing development that's already taken place in these areas.

Councilman Garde: The existing developments, I think are grandfathered out by a clause in the back end, so with grandfathered out for things that exist; it's for things that don't exist but that this, I believe, would be...

Hal Godwin: I can address that. He brought me some exceptions that are in the county's ordinance, that I didn't even know were there. I want you to read these, because these exceptions could be modeled, or actually copied over, into your Code. Let me just read one to you that will address this project that you're concerned about. One exception that could be written into your Code would be, sub-division and land development projects that have received preliminary plan approval by the Planning and Zoning Commission, Conditional Use site permit plans that have received approval by the Commission, Conditional Use site plans for public water supply in an existing, recorded sub-division, or a concept plan approved in the case of residentially planned communities and cluster

sub-divisions should not be subject to the provisions of this Chapter. So you can work something like that that would customize it for Milton and put that in your Ordinance. Those are the County's, but you could put these exceptions in to protect these pre-approved projects and also help address situations of populated areas, particularly densely populated areas that are on top of them.

Councilman Garde: Since this exception is not written on the State's Draft, they would approve this kind of thing that's in the County's?

Doug Rambeau: That's correct. The model ordinance that Hal read off of, is just a recommendation. It can be tailored to any town's requirements, so if a town wants to be more stringent than what the Department requires, then your town has that right and we will not object to it. Where we will have problems, is if the requirements are more lax than existing state or federal requirements.

Councilman Garde: Understood. I don't know if anybody else has any questions about this, but I'm carrying the conversation as though I mean... but I read a draft, several times and I do have some comments on it and I tried to study this to make sure that I understand what some of the definitions are, because I had a tough time with wellhead zone two. Zone three I don't have an issue with, but we have precious little in zone three. Just for people's amazement, you would think it was a different way. The most restrictive is zone one, which is seen most clearly at well five, where you have that little roundabout at well five. That's the most restrictive. The next most restrictive is zone three and zone three is more restrictive than zone two, because it's defined as an overlay between an excellent recharge area and a wellhead protection zone. We do have a little bit of that. It's right down on the waterfront. In fact, I don't think it goes into the park, but the recharge area goes into Milton Park. Zone three, I don't think makes it down there. It's really quite limited, but it's very restrictive. If we had a bigger zone three, we would have bigger restrictions on what we could put there in order to ensure our drinking water stays pure.

Jim Welu: Sam, what area are you talking about that's approved, but not constructed yet?

Councilman Garde: Holly Lakes. I'm sorry, yes, the Holly Lakes is shown as being outside of town on this map and it's actually been annexed into town and there has been a preliminary approval of the Holly Lakes. I don't know if it's a sub-division or a development or what we call it specifically, but the ordinance, when we adopt it... without this exception that Hal just read, could have been an issue, but if we're allowed to have that, it becomes a non-issue.

Hal Godwin: All they're looking for, is they're looking for us to do what we should be doing anyway with the Comprehensive Plan and that is to project forward. Here's how we're going to do things in the future. What we already have in place, we know we don't want to inconvenience property owner and landowner's and homeowner's; we don't want to cause problems in that they can't deal with this _____, so we have exceptions. We also grandfather in certain things.

Councilman Garde: And we have the right to... I'm not sure what the process would be, but we have the right to grant a variance from this to the Board of Adjustment. I'm not sure what the process would be; whether the State needs to get involved...

Hal Godwin: I think your legal counsel may tell you that for you to award any variance, you should be able to show a case of hardship. In other words, what this ordinance is requiring the property owner to do, creates a particular hardship, that they really

shouldn't be asked to carry. Once they prove the hardship, then they're eligible for a variance. Am I correct?

Seth Thompson: That's exactly right. The Ordinances as applied to that particular parcel are depriving it of essentially all of its ability to be used.

Councilman Garde: I didn't bring the draft that I was working on, but I did suggest that the Town Council members have not really had a chance to vote on the table. In the draft ordinance by the State, it's actually blank, with the exception of... The draft that we were looking at Hal's excellent home... I hadn't said thank you, publicly. I need to say thank you very much for putting a draft in front of us that's so cool, but I think that the members of the Council need to give a little more attention, especially to the Table and I think at a workshop we could show them quite easily, how the selections were made, where options are made available by the State. In filling out this Table, there's also some concern to me, so that the Town Council members, who are the only ones who have a right to actually make this become a law, or a Code in our Code Book and I think we need to take a look at all of these things, collectively, so I'm suggesting something like a workshop with Hal and if the State...

Doug Rambeau: The Department is ready at any time to come down and give you a presentation on Source Water Protection, the requirements of the 2001 Source Water Protection Model and assist in any way possible in helping you get this done.

Councilman Garde: Fantastic. Thank you very, very much for your time and your mouth.

Hal Godwin: I called him at noon and said I hate to ask, but can you come tonight and he said I think I can come.

Mayor Jones: Mr. Godwin, does the Town have a copy of the county's Source Water Protection Ordinance?

Doug Rambeau: It's up on General Code at this point.

Mayor Jones: Because it sounds to me like you're talking about blending some things that are already working for the County.

Hal Godwin: To show that there's flexibility and that DNREC recognizes the need for that flexibility and they're willing to certify that. When this Ordinance is passed by you, it will then go to DNREC to make sure it gets the final seal of approval; it will _____ all these environmental standards we're supposed to meet. Then it's the gospel here in Milton.

Doug Rambeau: You can also get reviewed during the Comprehensive Development Plan Process. We have a dedicated person who does PLUS and Comprehensive Plan Reviews and looks for the certification issues for Source Water Protection.

Councilman Garde: Does that make the timing of us having a Source Water Protection Ordinance in the past, at the Council level; is it...

Doug Rambeau: We're not rushing you.

Councilman Garde: Okay. Thank you.

Mayor Jones: It can happen simultaneously as we're working on the Comprehensive Plan?

Doug Rambeau: That would be fine. Yes.

Mayor Jones: I would like if it's Council's desire to have Mr. Rambeau and Mr. Godwin and we'll submit a time and a workshop for the Council; that would be wonderful. Mrs. Rogers has your business cards?

Doug Rambeau: I'll make sure she does.

Mayor Jones: Okay, great. Mr. Thompson, do you want a motion to table this in lieu of a workshop?

Seth Thompson: For purposes of holding a workshop?

Mayor Jones: Yes.

Seth Thompson: That works.

Councilman Coté: So moved.

Councilman Garde: Second.

Mayor Jones: Is there any further discussion? All those in favor say aye. Opposed.

Motion carried. Thank you very much.

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

- a. Recommendation from the Milton Garden Club - Replacement of Downtown Clock – including approval of the style and expenditure

Mayor Jones: Elaine Carbone is here and she is going to make this presentation.

Elaine Carbone, 330 Union Street: Good evening, Mayor Jones and Council members. I'm here representing the Milton Garden Club to offer our help to the Town in replacing the clock in the garden across the street. As you know the Milton's Lion's Club generously donated the present clock to the Town many years ago; I believe around 25 years ago. The clock served the town well, but it is no longer functioning and according to the Town, it is beyond repair. In an effort to help the Town move forward in replacing the clock and after Betty, Pat, Carol and I, we take care of the garden that the clock is in, after we heard comments from so many interested citizens and visitor's about the non-working clock, we have researched and supplied you all with much _____ about a large, two-dial, Howard post clock replica made by Electric Time Company of Medfield, Massachusetts and this is it. The clock is an exact replica of an 1890's design, a beautiful clock that also fits in perfectly with the historic character of the town. The Electric Time Company has been in business for over 80 years. Their clocks are custom built, with parts made in their Medfield, Massachusetts factory and they can still service and supply parts for the first clocks that they made. We are excited and anxious to get started on this project. We will work hard, a trademark of the Garden Club to find funding and have already had offers of community support, in addition to a proposed donation from the Milton Garden Club. The cost of the clock is \$16,618, shipping is \$1,458, for a total of \$18,076. Our goal would be to raise \$20,000 in order to cover the concrete base, the electrical work and lifting equipment if we can't get that donated, somehow. What we need from the town is number one, permission to work on this project; two, removal of the present clock as soon as possible and three, a commitment of the town for funding towards this project. A deposit of 40% is required when the order for the clock is placed. We are hoping the town would contribute at least that amount, \$7,200 and also pay for whatever costs are associated with removing the old clock and pouring the concrete foundation for the new clock. I was so pleased to hear Councilman Coté say that we are not broke.

Councilman Coté: Unfortunately, it's not in the budget either.

Elaine Carbone: But I understand you can get around that.

Councilman Coté: We have a six-month budget review.

Elaine Carbone: One of the first things people ask when discussing fund raising for a new clock is, how much is the town contributing? We will be proud to tell them that the Town thinks it's as important as we do, to create a beautiful gateway to our town. I hope we can leave here tonight with a commitment from the town and permission to get

started on this clock project for a town that we love and are proud to call home. Thank you.

Mayor Jones: Thank you.

Elaine Carbone: If you have any questions, I'll be happy to answer them or get the answer for you.

Mayor Jones: Elaine, all of you did a great job, whoever participated in this and gave this much information to the Council, I really appreciate it.

Councilman Garde: Elaine, there are other options offered in the document that were both more expensive and less expensive, but as I understand it the Garden Club is recommending this specific one, as opposed...

Elaine Carbone: That's the one that we like, but it's not written in stone.

Councilman Garde: Well, just as an example there's... I think it may say Courtyard, which is a little bit smaller and a little bit less expensive. One of them is a \$50,000, so thank you for not recommending that.

Elaine Carbone: Well that's a four face, this is a two-face, but one of the reasons I thought that a shorter one would not be good, is because number one, we put a tree there _____ and we wouldn't want to block this _____ clock and just for decorations and things... This would be about the height of the one that's there now, not counting the fancy part on top.

Councilman Garde: Just for people's amazement, if I read this correctly, it looks like it's 15'1" from base to top.

Elaine Carbone: It's 15'6".

Councilman Garde: Okay. Yes, the six got evaporated from my copy.

Mayor Jones: Council if you have any questions for Mrs. Carbone.

Seth Thompson: Mrs. Carbone, is there and this is really for a competitive bidding question; do you know if there are other makers of the same clock, and the reason I ask is one of the exceptions to competitive bidding is that it would be impracticable to obtain competition. So in other words, if I want to buy a particular car, it's not like I could put that out to bid. I have to go to that manufacturer of the car. Do you know?

Elaine Carbone: There are other manufacturers. What I was looking for, was somebody with a track record and longevity; somebody that you could count on to be able to service that clock, 25, 50 years from now and it's also made from aluminum, which I understand some are made from fiberglass, which can crack.

Seth Thompson: Thank you.

Councilman Garde: It also looks like it's pretty easy to maintain, it just has the one little electrical box that goes...

Elaine Carbone: There's no required maintenance, yearly maintenance.

Councilman Garde: Is it like a clock with one movement, or the older clock had a bunch of more complicated electronics; this is pretty...

Elaine Carbone: It has the GPS satellite synchronization on top, so that there's no drift and it automatically changes for Daylight Savings Time. There's no charge to put Town of Milton on the top.

Councilman Garde: I like the picture of the Town of Milton clock...

Mayor Jones: This style also has the ability to have a bronze plaque placed on any of those four fronts, which is very nice.

Councilman Garde: I was not a member of Council, I was sitting in the audience if you will, when the Lion's Club had made a presentation and I don't remember if or what exactly the Lion's Club had volunteered to do, if anything. Does anyone recall that?

Mayor Jones: The Lion's Club member that did come in front of us requested that we continue to try to maintain the clock that we had and if it did need to be removed, they also respectfully requested that a plaque could be placed for their work in the community on the new clock.

Councilman Garde: But they had not offered or volunteered any funds or participation?

Kathryn Greig, 326 Union Street: I was here the night that the Chiropractor was is President of the Lion's Club, I think it was in March or April, and he was here to say that the Lion's Club could neither afford to go ahead with a new clock and he was turning it over to the town to do whatever they could. I have a very good memory.

Mayor Jones: It was actually Mr. Coverdale who came in.

Kathryn Greig: The time I was here, it was Dr. Reeves.

Mayor Jones: Yes. I am correct, it was Mr. Coverdale who came the first time. Is that correct?

John Collier: Mr. Coverdale did come and make a plea, but he was here as Mr. Coverdale, not as the Milton Lion's Club.

Councilman Garde: Thank you. From a process standpoint, can we authorize a \$7,000... can we commit to funding this now?

Seth Thompson: In essence, it's a budget adjustment and the main thing that I needed to know, since it's above \$5,000, is whether it falls into a one year exceptions for purposes of competitive bidding. It gets difficult. It sounds to me like there might be other manufacturers; this isn't necessarily a service contract, as well. There are certain contracts where it's you're buying a product and then you're getting the service, because there is an exception that applies to personal services for competitive bidding. I don't know the clock business well. My name is fairly close to Seth Thomas, but it's a...

Mayor Jones: Mrs. Rogers or Councilman Coté, when are we do for our six month review, after the March figures are in?

Councilman Coté: Yes.

Mayor Jones: That will not be until May.

Councilman Coté: One question I might ask the group is in the event we said... if we could agree to go forward with \$7,200, what do you anticipate the timeframe for you all to come up with the other basically \$13,000?

Elaine Carbone: Hopefully only a few months, but we'd really like to have the town support before we go to other people to ask them for donations. If you look at it this way, if we didn't do this and the town had to pay for the whole thing...

Councilman Coté: I have to defer to Mr. Thompson about the bidding, because he has the Code Book.

Elaine Carbone: If you could only authorize \$5,000 without a bid, can you do \$5,000 now and...

Seth Thompson: It does reference that it's \$5,000 or more in aggregate, so we're not allowed to circumvent the donation by breaking it into increments of \$5,000 or less.

Richard Miller: What about shipping charges, does that stand alone?

Seth Thompson: It's an aggregate for the project.

Elaine Carbone: Well, I think we would rather have \$5,000 now, so we can go ahead with this before our flowers start coming up, then to have you say we have to start this whole process over and get more bids.

Seth Thompson: Understood. I just want to make sure that obviously when it's the public's money, we need to make sure that we follow the law and it could be that this

very well is something that falls under the exception because it's impractical to obtain competition. That could well be. I just don't know how comfortable the Council is.

Councilman Garde: I'm not comfortable at all, because I don't know one way or the other. I have this excellent research and again, thank you for it.

Elaine Carbone: Kathryn would say yes.

Councilman Garde: Just because it make sense and just because it's a very good idea, doesn't mean we have the authorization to do it in accordance with the Code, as our solicitor has said. I don't even know if the \$5,000, as suggested, would allow us that exception, meaning whether the aggregate price of the deal was \$20,000 and we're going to contribute \$5,000 can we get under that on the basis of our \$5,000, or do we need to comply with it because it's \$20,000, no matter what?

Seth Thompson: No, the \$5,000 limitation is for town funds. For instance if you had some project with another town... It's not the total cost of the project, necessarily. It's really the total cost of the project that's coming from town money.

Councilman Garde: I would like to see if there's a possibility of doing a quick Internet search on large clocks, to see if there are a significant or insignificant number of other potential supplier's in order to overcome this or if not, and you want to proceed rapidly, the most you're going to get from us is \$5,000.

Elaine Carbone: Okay, we'll take it. We can help raise the rest, really.

Councilman Garde: That's still a big "if", no one has quoted anything and we have to have a...

Elaine Carbone: Well, I hope you're going to make a decision tonight, right?

Councilman Coté: In terms of your thought Councilman Garde, we did have... this goes back months, back to June, we did have other choices presented for clocks; before you were on the Council we received information on four or five other choices, which I think because we have that available might be, for comparison purposes, might be worth looking at, particularly if we have another meeting this month, we could do it in... I don't know if we have a planning for another meeting, so we could do it by resurfacing the old information, to compare, and then...

Councilman Kost: I make a motion that we table this discussion to our next meeting, so we can gather more information and find out our finances and find out alternatives and hope at the next meeting we'll have enough information to make a decision.

Elaine Carbone: When is your next meeting this month?

Mayor Jones: We're looking at the 19th aren't we, Thursday the 19th? So let's everybody understand that the plan is to take the previous samples of the clocks that were given us by Mr. Wingo...

Councilman Coté: For discussion, I'll second.

Mayor Jones: So understand we're going to draw from the supplied paperwork that Mr. Wingo gave us previously as a comparison to what we're looking at tonight; to satisfy the competitive bidding and look for other options.

Seth Thompson: Competitive bidding is normally when you... You're going to be going out to anybody that wants to submit a bid.

Councilman Garde: I was going to say, that's not competitive.

Seth Thompson: Right. Certainly that's helpful and knowing this is in the ballpark.

Mayor Jones: Comparison. It says there that we are to look at other clocks available and I say Councilman Garde if you go to the website to do that, you'll find everything and it will just be a very, very large undertaking; if we have some samples already.

Councilman Coté: Which is probably what the Garden Club has done already.

Councilwoman Patterson: I think the Garden Club has done a great job of coming down with all the options and from what I understand, this particular clock is special for several reasons, it's aluminum, the face is what we want in town... and the fact that there's probably set, so _____ a lot there as far as townspeople. Mr. Wingo doesn't have to struggle to set the hands during Daylight Savings, or if there is a power outage, I was reading in there, it automatically resets, so there are a lot of things in this clock that are specific for this town and it would really be worth it for the town, as presented to us this evening from the Garden Club.

Mayor Jones: We just want to make sure that we are okay to go with one company and not looking at other choices, but we do want to try to fulfill. Correct?

Seth Thompson: All of those features make perfect sense and it sounds like the Garden Club has obviously put a lot of thought and effort into it, that could be your request for a quotation.

Councilwoman Patterson: Right and I do think with the documentation and the packets that we have here, it's very well thought out. All that information...

Seth Thompson: Again, committing the \$5,000 is something separate. You could do that anyway.

Kathryn Greig: Just one thing, if you're unable to make a decision tonight, would you make the decision to remove the old one, because in a few weeks the tulips and daffodils and everything are going to start coming up. Right now is the time to get rid of that clock. It's an eyesore right now, without working and if you can make a commitment tonight to get rid of it by the end of February, that would be really wonderful.

Mayor Jones: I agree with you and it's been needed to. Just a moment Mr. Kanakos. Mr. Wingo, how would the removal of that clock fit into your time schedule?

Greg Wingo: As long as the weather was decent enough to go out there, I'd say we could probably have it done within the next two weeks.

Mayor Jones: Because that is something that we've discussed among ourselves, just taking the other clock down. Many of us have wanted to remain rather sensitive, since that was the Lion's Club, but you're right, it's time for it to come down if we cannot resurrect using it again.

Kathryn Greig: Well with everyone asking about why it's still up, I mean it's getting to be an embarrassment.

Mayor Jones: I agree.

Kathryn Greig: If it's vacant then we'll just put a big old flower pot there until you give us the money.

Elaine Carbone: _____ and start with what we have planned.

Mayor Jones: Now, we do have a motion on the table to table this and bring it back at the next meeting on the 19th. Any further discussion? I just want to make sure nobody else on Council had anything to say.

Ted Kanakos, 106 Broad Street: I concur, we should get rid of that rusty little pylon there. The question I have is, as I understand it, we had a number of styles presented by _____. The distillation of those styles came down to this one, which we're buying and _____ you've made the choice, or is this open to what the Garden Club would prefer?

Elaine Carbone: Right.

Ted Kanakos: Okay, now, here's the question. Of all of these different styles, I'm sure there are multiple companies that make each style and when we get down to this clock, which I think is very attractive, I think we should really research and you mentioned

that there probably are a number of companies that _____ that make this clock. This appears to be a first class company. The Gucci of clocks, let's say. I do think there are a number of people that make this type of clock; even made in China, literally to probably the same specs for maybe half or less than half. But I think we need more research to see, once we pick the style and then we pick the manufacturer. I don't know that we have any other manufacturers that we've looked at?

Elaine Carbone: Just online.

Ted Kanakos: Just online? Are there any proposals from these that you've _____ as far as price and style and services that they would offer?

Elaine Carbone: No I was very impressed with the company that we recommended.

Mayor Jones: Mr. Kanakos, Mr. Wingo has already done research earlier, actually last year on other company's...

Ted Kanakos: On this specific clock? Okay...

Mayor Jones: I can't say that it is absolutely this exact same clock and I would say anybody who makes them may put a different name on this clock, but yes there were several examples given that followed this very, lovely, historical looking clock. Yes, so we do have some pricing and some other company's available to us already.

Ted Kanakos: You should look at them.

Mayor Jones: We absolutely will look at them.

Ted Kanakos: Okay, great. Thank you.

Mayor Jones: You're welcome. Motion and a second to table. If we do that, I would recommend that a decision must be made on the evening of the 19th for the Garden Club to proceed or at least that Milton is either in the game or not. So that is what's on the table right now. Are you ready to vote? All in favor of tabling say aye. Opposed. Motion carried. Mr. Wingo, if it's appropriate and it's to the Council's liking, I would ask that you go forward with removing the town clock.

Councilman Garde: And I'm assuming if it's done by our own people, that they may need another time charge or something, but it basically doesn't cost us in terms of salaries; there may be some components or some materials that need to be bought, but in terms of the labor, we're going to pay for that labor anyway. In which case, I make a motion that we go forward with the demolition of the existing clock and its base, using town staff.

Seth Thompson: I'm a little worried because of the way it's listed on the agenda, it talks about replacement of the downtown clock. Now to replace it, obviously you'd have to remove the old one. I guess I'm worried what the Lion's Club is going to think. I know that it's on the agenda and the year before...

Mayor Jones: Well I wanted to ask... I do know a member of the audience that was here earlier had wondered if something like that clock will be of interest to our Historical Society? I suppose the only way of knowing that, would be to ask. No one's come forward Mr. Collier from the Lion's Club to claim the old clock. Is that correct?

John Collier: Not to my knowledge. I do understand that there was a communication circulated among members of the Lion's Club in regards to the Garden Club's intent and it was met with no objection from the Lion's Club.

Mayor Jones: Thank you.

Jim Welu: Can I make a comment?

Mayor Jones: Mr. Welu, please make it very brief.

Jim Welu: If nobody wants the clock, I think you might want to donate it to the Historical Society for their next auction and then that money could go to the new clock.

Mayor Jones: We'll be contacting the Historical Society, yes. Thank you. And thank you all for your presentation.

Seth Thompson: So I think we still have a motion.

Councilman Garde: A motion to allow town staff to go forward with the demolition and try, as hard as they can, to preserve something that can be donated to the Historical Society from the old clock. I don't know if I need to include in this motion anything about the Lion's Club factor. I think that should come later. This is just authorization to demolish.

Councilman Coté: Remove. Prefer the language remove, rather than demolish.

Councilman Garde: Agree, okay to remove. Okay, I'll revise the motion to use town staff to remove the existing clock and its foundation.

Councilwoman Patterson: I'll second.

Mayor Jones: Discussion? I would leave the removal of the foundation to the discretion of Mr. Wingo, as to whether or not that foundation can be repurposed for the clock. Second, I would rather the phone call be made first to the Museum to determine whether or not they are interested, because it could be a real mess for them to try to preserve that sign and take it down in one piece. I'd like to find out that there's an interest there and that extra work can be put into preserving the removal of that clock, rather than just demolishing it. Does that make sense?

Councilman Garde: That requires a modification of the motion.

Mayor Jones: No. Your motion was real clear, just to take it down. Mr. Wingo, did you want to say something about that clock?

Greg Wingo: I just want to make sure I totally understand... when you're saying removing and storage; or removing the outside tin and donating it to the Museum. I mean, are we taking it down and hauling it to the scrap yard, or are we taking it down and hauling it to the shop and storing it? I mean, I just want to make sure we're on the same page.

Mayor Jones: I would believe that a phone call would be placed to Ms. Schell at the Museum and determine whether or not the museum has any interest in the clock whatsoever. Then I would say this demolition, of course, metal from scrap which Milton collects through the years and re-purposes it, but I don't see any need to store it.

Councilman Kost: Would the director of the Museum have a say in that?

Mayor Jones: I don't know. I'm sure Ms. Schell will comment on that.

Councilman Kost: Maybe you can just store...

Mayor Jones: The problem is taking it down in one piece; we have no idea what the obstacles they are going to have will be.

Greg Wingo: We're not going to be able to take it down in one piece. It's going to come down in sections and probably, to be honest with you, the only part worth saving that the museum may want or I see anybody wanting, would be something on the outside shell. I have had an individual contact me, wanting a little section of that pen, but what I really need to know is... we can take it down. I'm not guaranteeing that we're not going to be able to dent anything or damage any of it, but I need to know whether I'm storing this at the maintenance yard or whether we're hauling it to the scrap, the same day we take it down.

Mayor Jones: I believe it starts with determining from the Historical Society if they want it. Period. If they don't, that's your answer.

Councilman Coté: In other words, we should find that out first, so that would either be redoing the motion or withdrawing the motion until we get that answer.

Mayor Jones: I don't think we need to withdraw the motion. I think a phone call tomorrow morning, the motion is still to take the clock down.

Councilman Garde: I would vote that we could stand that way and that before we give Mr. Wingo permission to do it, it's a process thing. The process is we pass the motion, if we pass the motion and the first step in the process is contacting Allison Schell. The second step is taking it down, one way or another. That would be the process for implementing it and you won't have your answer tonight. If the motion passes, Greg will not have an answer tonight. He will have an answer after Ms. Schell responds.

Greg Wingo: The only thing that I'm trying to do right here is to protect myself from problems. Like I said, I would very much like if one of the council members when they make this motion, is if she doesn't want anything at the museum, if you make the motion where it states basically that when we tear it down, we haul it to the scrap yard.

Councilman Garde: I would modify my motion to authorize the Public Works Department, after the Milton Historical Society opts one way or the other with respect to their interest, and if they have no interest, that Public Works be authorized to send it to the scrap yard.

Councilwoman Patterson: Second.

Mayor Jones: I want to allow Mrs. Carbone to make a comment.

Elaine Carbone: Are we allowed to start fund raising? Do we have to wait until after the next meeting?

Mayor Jones: The Town has not committed its portion of the funding that you have asked for, but we have asked the Council to make sure that they are prepared to make that decision on the 19th.

Elaine Carbone: That's how much you would be donating, but do we have permission to start working on the project?

Unidentified Speaker: You don't have a commitment of money from the Town.

Councilman Garde: You don't have a commitment for money from the Town and you don't have a commitment from Town Council for this specific clock, so those are two issues that will have in table and will be taken up at our next meeting. If you feel that you need those resolved, then you're not authorized. If you don't feel you need those resolved, then we can discuss it, but I don't see anything to hold you up from starting.

Elaine Carbone: So we can begin fund raising, on our own.

Councilman Garde and Elaine Carbone were speaking at the same time. I could not figure out who said what.

Councilman Garde: You won't have Town Councils' authorization, but as the Milton Garden Club you may start fundraising on your own.

Elaine Carbone: Okay, we'll only ask friends until we know.

Seth Thompson: That's accurate. I take it you're going to be doing the fund raising in the name of the Milton Garden Club, as opposed to the Town of Milton, you may start fundraising on your own.

Councilman Garde and Elaine Carbone were speaking at the same time. I could not figure out who said what.

Councilman Garde: As opposed to having authorization from the Town Council, which we specifically didn't give you, as the Milton Garden Club.

Mayor Jones: Mr. Oates.

John Oates, 115 Arch Street: Seth, I have a question, a request for a clarification on the exception that you had alluded to earlier. I understand what you're saying. If this _____ the clock that the Garden Club has endorsed, is the ultimate one that the

Council approves, that that would be based on, or could be then seen as an exception to the competitive bidding rule?

Seth Thompson: No, I think my point and sorry if I misspoke, but my point was that you could take the characteristics of the clock that they found to be appropriate and then turn that into a Request for Proposal or a Request for Quotation and then send that out for competitive bidding and see what company's respond. The exception I was talking about was there's one where it's impracticable to obtain competition; so if the Town needs an aircraft carrier and only one company builds aircraft carriers, it's not impracticable to obtain competition. That's why I asked, do other people make this clock? That's really the question.

John Oates: Again, it's a custom item. Is that correct, Elaine? This is a custom made, so depending on how you want to define that, I'm sure different manufacturers could make you a custom made clock; would they be the same? That's a question of semantics, once again.

Seth Thompson: Right and so to kind of use my car example, if I really want an Accord, Honda's going to make that Accord. I can't go to Ford and say build me an Accord, but if I want a four-door sedan that gets 25 miles to the gallon, and is under \$25,000, then I can get an Accord or whatever. It really does kind of depend on how you define it. I agree.

John Oates: So on February 19th then, are we going to be in a position, is the Council going to be in a position to make a decision on the clock that the Garden Club has endorsed?

Seth Thompson: Right, I can assume...

John Oates: You have Mr. Wingo's research to cross-reference. Is that going to be sufficient and will we get a decision that night?

Seth Thompson: Looking at what other people have priced, I think it's going to be helpful to determine if, indeed, this is something where we can say we want a two-face clock. It needs to be 18' high. It needs to have Roman Numerals. If indeed it's possible to identify all those characteristics and then the Council could approve a Request for Proposal and approve somebody in Town Hall to issue one. But, just because you compared pricing online with something else, I don't think that gets you out of the competitive bidding.

John Oates: If I understand what you are saying, then on the night of February 19th, we will only be beginning the process of selecting a clock.

Seth Thompson: I think that's fair to say, unless _____ comes back that sure enough, this is the only company that makes the clock that will be acceptable to the Town.

Councilman Garde: Your question was will there be a decision? My understanding of our charge at the moment is that there should be a decision, but that decision is not necessarily to endorse what they said; that decision may need to go out on public bid, because we don't have an option under our Code. That's a decision, so we are charged with coming back, as I understand it, this is not a motion or anything else. My understanding is we need to make a decision on February 19th. The decision, there's a lot of latitude in what that decision might be. It is not a question that we will decide to offer this clock; is we will make a decision with respect to support of a clock.

Elaine Carbone: It's a decision whether you're going to be able to get us \$7,200 or \$5,000; \$5,000, there's no problem, correct?

Seth Thompson: That's right.

John Oates: So on February 19th, we will have a funding decision.

Seth Thompson: At least a funding decision and then, seemingly, I would think you have a style decision, as well.

John Oates: That's fine. Primarily what is required at this point, is a funding decision. We can expect that on the night of the 19th.

Elaine Carbone: One thing, when you're comparing, this one is made in the U.S.A., not China, not somewhere else.

Councilman Garde: There is, at least there used to be, I don't know what the buy limit was, but the Federal Government has a buy American preference, also. I would have to do more research... there was preference given to buying in America under certain Federal statutes, which I can't quote you and may not be applicable, but in general, there is a preference for American Made.

Seth Thompson: I think our State Procurement Statute has something along those lines. Your Charter does too. Really, it's supposed to be the lowest responsible bidder. There's no tie breaker, there's no cost factor, if everybody's a responsible bidder, meaning they're a legitimate company, you know you're supposed to go with the lowest number, unless one of the exceptions to the competitive bidding process applies.

John Oates: Again, just to keep in mind, one of the things that the research team has been emphasizing is one of the problems with the older clock was over time there were no replacement parts available. This particular company is...

Elaine Carbone: They make their own parts.

John Oates: Saying that 80 years from now, parts will be available, so this is long term and that's no P.R. I spoke to this fellow myself and he's trustworthy. He's Irish, so...

Mayor Jones: So we have a motion and a second on the table still in reference to demolition of the clock.

Councilman Garde: Removal.

Mayor Jones: Removal, excuse me. Thank you, Councilman Coté. Is there any further discussion on this matter? All those in favor say aye. Opposed. Motion carried. Is this something else to do with the clock, Mr. Kanakos?

Ted Kanakos: Yes.

Mayor Jones: Please, very briefly if you're going to speak.

Ted Kanakos, 106 Broad Street: What I wanted to say was if this clock that they had picked was what they feel the best, based on what they have already researched, why don't they bring the other comparisons with them, next time. They're only giving what they consider to be the best and have researched. I would like to see what they have researched and maybe we can confer on that immediately next time. All I'm getting is one person saying I like this, or saying that they had researched it, but they're not showing us the research. I don't think that's quite fair for somebody wanting to get by with \$7,000. Thank you.

Mayor Jones: Thank you.

b. Security Instruments Radio Network Node Installation on the Chandler Street Water Tower

Mayor Jones: You have in front of you a letter from Kristy Rogers in reference to the Security Instrument proposal. Mr. Brooks is here. Let's see if he wants to speak. Would you like to come to the microphone?

Clarence Brooks, Security Instrument: We are a vendor to the town, currently providing security monitoring and video services in the Town Hall. Our proposal in summary is to put in a Network Node antenna on top of the Chandler Street tank that will allow the

monitoring network to be improved in this area, including what we're doing for the Town of Milton. I could give you a summary of what we're going to do. The antenna itself is a 4' fiberglass antenna that we would like to attach to the existing railing at the top of the tank.

Councilman Kost: What are you monitoring? I have no idea of what you're monitoring.

Clarence Brooks: In the Town Hall we are monitoring intrusion and panic alarm sensors.

Councilman Kost: No, I mean on the tank?

Clarence Brooks: The way the system works is there's an antenna, it's a Relay Network Node for the signals that come out of the Town Hall and other businesses in the town. We use that Network Node to reach further into our network in a more efficient manner.

Councilman Kost: [Unintelligible] with the tank?

Clarence Brooks: Right. Currently the signaling takes multiple hops to reach one of our collection points on Lewes-Georgetown Highway. This will make it more of a direct route, more efficiently reaching that network collection point. This will be done at no cost to the town. We've also agreed to waive the monitoring fees that the town is also spending with Security Instrument, in exchange for this elevated location. In the picture you can see that we intend to continue to allow the local crows to roost on the top of the railing, so there will be no impairment on their gathering.

Seth Thompson: Heckel and Jeckel won't have to relocate?

Clarence Brooks: Right. I surveyed the location with Mr. Wingo and the space inside the tank is too thin to wire; they're small _____. Minimal use of electricity device.

Councilman Garde: I'm just reading my proposal and it seems that this is not an eyesore, per se. I've seen a lot of tanks in other areas, where they have all kinds of antennas and it looks like a substitute cell tower. This little guy, you gave us the height. What is the width of this antenna?

Clarence Brooks: It's approximately a ¾" antenna. No bigger than this pipe right here, holding the microphone.

Councilman Garde: Okay and that would be attached to one of the vertical slots up there, so it would be essentially from an aesthetic point-of-view, invisible.

Clarence Brooks: Correct.

Councilman Garde: Essentially, I mean obviously you can see it, but it's not going to have any significant visual affect?

Clarence Brooks: Correct. That would be our intention.

Councilman Garde: Well your intention is that would be the result.

Clarence Brooks: Correct. That would be the result of what we're looking to do.

Councilman Garde: Okay, thanks.

Mayor Jones: Mr. Brooks, does Security Instruments have this type of antenna anywhere in the surrounding communities?

Clarence Brooks: Yes we do. We have many collection points in the State, including we're on a tank in Sussex Shores water tower, Bethany, South Bethany and a few others in Newcastle County.

Councilman Garde: Can you just give us a clue as to besides the Town of Milton, I assume that's our office in Milton? What other customers do you have who would benefit from this?

Clarence Brooks: There are other customers in the area that utilize the network for fire alarm monitoring. The State of Delaware uses the National Fire Prevention Codes and they have approved this method for fire alarm monitoring. Additionally the telephone

system is becoming less and less reliable for use for that said fire alarm monitoring, so it will improve the town, as well as other people in the area that can use this system.
Mayor Jones: Mr. Brooks, someplace like South Bethany or Sussex Shores, which I think is a private water company, isn't it; do you pay them anything for installing this system?

Clarence Brooks: We do not. We have the same arrangement, monitoring their facilities with this system.

Mayor Jones: If the Council approves this, how soon would you want to start work; because we're going to have maintenance done to that water tower and paint, right? So is it impractical to have one done, prior to another?

Greg Wingo: We had discussed that and what I wanted to do, real quick, is make a quick correction on the Water Report. The 16th Corrosion Control is going to start painting that tower. It will take them approximately two weeks and then if the Council approved it... and we had discussed it. It's real simple. They're going to go ahead and take down while they maintenance it; they can install it before that happens.

Mayor Jones: Do you have any other questions for this, anyone on Council?

Councilman Garde: I have one, which is are we currently paying a periodic fee to Security Instruments?

Clarence Brooks: Yes you are.

Councilman Garde: So if we allow you to put this on our tower, you will waive that fee in perpetuity?

Clarence Brooks: Correct.

Councilman Garde: Thank you.

Seth Thompson: Mr. Wingo, does it pose any potential harm or anything to the tower; is there a possibility of a short, or I guess I'm just trying to figure it out from a legal standpoint? Do we need some sort of Indemnity here, Hold Harmless Agreement, that kind of thing?

Greg Wingo: No. They went over exactly the wiring that they would use and the placement of the antenna. It's not going to cause the tower any harm, or having anything to do that's going to hurt the tower and all readings.

Seth Thompson: And I guess Mr. Brooks, to follow up on that, have you guys formalized your agreement with Bethany, South Bethany?

Clarence Brooks: Yes, we do have agreements in place with the other tank sites that we've used for many years.

Seth Thompson: So you've gone to a written agreement?

Clarence Brooks: Yes.

Seth Thompson: Okay, because I would suggest that.

Clarence Brooks: We would provide that as well to the Town of Milton.

Seth Thompson: Terrific.

Mayor Jones: And you did indicate that the electricity strip that is used for this will be almost nothing _____. Is that correct, also?

Clarence Brooks: Correct. It's less than a 60 watt light bulb and if you look at the installation in the lower left hand corner, there are other things currently powered up in there, the electrical use would be on a par or less than any of those devices that are in use and Mr. Wingo, you can correct me if I'm wrong, that was monitoring of the tank level in that photo.

Councilman Garde: My last question is just to reassure us, is the frequency that you transmit on, is a frequency that you're authorized to transmit on and will not interfere

with aviation efficiency? There is the Federal statute which respect to frequencies in our state; and I assume that you are in compliance with all of those and would indemnify us in the event that the frequency of your transmissions interfered with somebody else's field? Is that basically correct?

Clarence Brooks: Right. We are licensed by Federal Communications Commissions that operate at this frequency. It's very low power so we provide them as well, in our agreement.

Mayor Jones: My other question for Mr. Thompson is that this appears to be that someone from Security Instruments needs to not only install the control box, but would need to install the antenna. Is there any liability insurance that they need to provide us with insurance, so that they can go up in the tower?

Seth Thompson: Are you going to use your own employee to install it?

Clarence Brooks: We generally use our own employee or contractor. We looked at the antenna and it's something... hook the ladder and you have _____ safety methods in place, that we can use our own employee's.

Seth Thompson: Okay. If they're using their own employee, that's something different. Obviously, if somebody gets hurt on the job, there's worker's compensation. If they're using an independent contractor, then we're going to ask for an Indemnification; so I guess if Council's willing to approve it, then they would... to approve... and they're going to do an agreement with Security Instruments.

Mayor Jones: And you would be able to supply a copy of that present agreement that you have with another company, too?

Clarence Brooks: Yes, that's right.

Mayor Jones: Is there any further discussion on Council? Do I hear a motion?

Councilman Garde: I will make a motion that we accept the offer from Security Instruments on the basis that a mutually agreeable contract is reached between authorized representatives of the Town of Milton and authorized representatives from Security Instruments to allow them to place a 4' high antenna, no more than ¾" in diameter, on top of our water tower and that they will waive the quarterly or annual fees associated with the monitoring fees that we currently pay.

Councilwoman Patterson: I'll second.

Mayor Jones: Is there any further discussion? All those in favor say aye. Opposed. Motion carried. Congratulations.

Clarence Brooks: Thank you.

Mayor Jones: Does Mr. Brooks need to be in touch with... thank you, Mr. Brooks.

- c. An Ordinance to repeal and replace Town Code Chapter 164 Entitled "Rental Licenses"

Mayor Jones: You have in front of you the marked up red version. This is the document that you opened up to public comment earlier in the evening. What I heard from public comment is that a number of things on this document warrant another look. Aside from going through this bit by bit, which Council can certainly elect to do this evening. If Council wants to make any recommendations on these and the changes that might be taken into consideration by the town, if they look at this again; from what you gathered from the public comments this evening?

Councilwoman Parker-Selby: We want to make sure that all the landlord's and people who are renting, particularly if they're not here, be notified so they can have input. I would assume that was done, but that's very important to me. They must know what's

going on before we make any decisions. Other than that, I think that document would need to be looked at very closely.

Councilman Coté: I made a few notes. One of the things that I would like to see worked into the language is, Mr. Collier's comment about this is not about family members and doing good for friends. It's the commercial enterprise version of this.

Seth Thompson: I think the focus on that and we can definitely tighten it up, so looking at the definition of tenant, it's somebody that occupies a rental unit or rental room with the landlord's consent and upon payment of compensation or other considerations. Then if you look at Landlord, a person who offers land, buildings, rooms, apartments or houses in exchange for monetary compensation or other considerations. You have to focus on the transaction. It's not my friend just split up with his wife. He's coming over to my house. He's going to stay a little bit.

Councilman Coté: He's going to buy me groceries.

Seth Thompson: That's right. Oh, by the way, here's some money. Thanks for letting me stay. That transaction is really the opposite, right? A normal commercial is, hey I'm offering this for rent, would you like to do that? You need to pay this and it's going to be this length of time.

Councilman Coté: Somehow I think that language needs to be there, that makes that very clear, that it's not about what we're talking about. It's about the commercial enterprise of renting vs. the doing good for a friend or a family member, or and I hate to have a situation where I have a four bedroom house and I'm by myself now and my kids are coming to live with me and they're going to pay the electric bill and buy the groceries. That's consideration.

Seth Thompson: Yeah, so the focus is really that bargain for exchange. You form a contract and then you perform on the contract. It's not, the kids are coming home and then hey Dad, _____, we bought the groceries this week.

Councilman Coté: I agree, but somehow the language I think... I would like to see language that specifically reflects that.

Seth Thompson: The one item that came up... I'm trying to think logistically how we can do it. Certainly Mr. Collier and I could put our heads together and try and draft a few different options, so to speak; but if the Council isn't... One of the issues was is it going to be applied to people just renting rooms, or does it have to be an entire rental unit, whether it's a house or an apartment? If you're not applying it to the renting of rooms, then those discussions really don't factor in. If it is going to apply to rooms, which you guys certainly can do, then we definitely have to have that conversation; how we could do that better.

Mayor Jones: My feeling is, it's often much more difficult to include all things it doesn't mean, as opposed to what it does.

Councilman Coté: This needs to be worked on.

Councilman Garde: I just think it needs to be clear. I agree with Councilman Coté. I think when any of us were bachelors, we rented places and we shared the rent with roommates. We don't intend for this to apply to that kind of a cost sharing arrangement. It just doesn't make any sense. I don't know that the Council has decided, as a Council, whether we want this to apply only to dwellings or whatever it...

Councilwoman Patterson: I think this is per dwelling only.

Councilman Garde: Well, right now it can apply to a rented room. _____ to a rented room, which is part of the current designation of residential rental unit in the draft.

Councilwoman Patterson: To keep or to eliminate.

Councilman Garde: That's the question. I don't know that we have decided among ourselves as to whether we want these fees and this draft to apply to the renting of a room, or only a different definition of a unit that would exclude a single room in a dwelling.

Councilwoman Patterson: I think, one of the things that I've been approached by is even in the dwelling unit, we have had three or more people, unrelated, living in a dwelling unit. I remember when I was in college we would rent a group house, share some of the _____ to make sure... The concern I have for several people unrelated, a large number of people living together [unintelligible]...

Councilman Garde: I think the draft tries to diffuse that, having eliminated the definition and focusing more on the transaction, but I think... if I were to vote, I would vote that this be limited to commercial transactions between a renter and a lessor/lessee. That would be my preference, is that it apply to a commercial deal, where you're making a living...

Councilwoman Parker-Selby: There's a lot to this thing, after hearing everything I heard tonight and we don't have time now, but I'd like to table this for the next meeting.

Seth Thompson: And that's fine. I think what I can, if it's okay with the Council, maybe what I'd do is Mr. Collier and I put together language that's this is what we potentially think it would look like, if you're going to apply it to rooms, as well as full rental units, this is what it would look like. If you're just going to apply it to dwelling units and not a rented room.

Councilman Kost: I only have one request. Could you send it without the redlines, so I can actually read it?

Councilwoman Patterson: Yes.

Councilwoman Parker-Selby: And when you're doing that adjustment, looking at the inspection access; that came out quite a bit tonight. Clarification and understanding that privacy should not and will not be invaded.

Seth Thompson: I think the intent, at least this is the way I envisioned it in my mind, was that the inspection would really occur prior to the unit being occupied. Now if somebody, if the tenant, the issue came up, well you have to have it inspected every year, maybe that's something that the Council says, no, you don't need to have it inspected every year; especially if you have the same tenants. So we could use do language like that. That seems to make sense and so then the inspection occurs before it's occupied, then you're not invading anyone's privacy.

Councilwoman Patterson: Yes, I like that.

Councilman Coté: In that regard, the license application one of the folks who smoke can consider having the Landlord certify that things were as they were supposed to be, with a listing of them; which I guess on the 136 and I would like to see that done. I like that idea in place of possible multiple inspections. To allow for inspections when there's a problem.

Seth Thompson: So, in other words, if there's a complaint... I'm sorry Councilman, did I...

Councilwoman Parker-Selby: We need a second for discussion.

Mayor Jones: I didn't know you said it in the form of a motion.

Councilwoman Parker-Selby: I made a motion but there wasn't a second.

Seth Thompson: I was just looking for some guidance so that you guys can say okay, yes this makes sense. I like the way this looks. No, you did a terrible job, Seth and go back to the drawing board.

Councilwoman Patterson: And in terms of inspection, I did like the concept of having objective criteria, so the inspections aren't subjective and I know this is of concern to Mr. Welu. He brought that up about trying to come up with some kind of objective criteria for the inspections with the Landlord.

Councilman Coté: A checklist would be objective and that would be good.

Seth Thompson: I've had a similar experience. My office it seems I have to hang up a new sign every time I know that the Building Code is changed. We need another Exit Sign and we need another directional sign to the restroom. That just seems to happen. I think part of it is human nature, well we're here to inspect. I need to find something, right?

Mayor Jones: Even in the midst of the motion, I can say that I know of a case of a friend of mine who lived in the Historic District, fought with the Landlord for years, pipes froze constantly, especially last winter; there was never anything that the Landlord was willing to do. The good part about that is, that it actually was occurring in one of our historic homes and finally the Code Enforcement did get in there to have a look, but that is somebody that suffered that would not maybe have had that happen if they had a means of reporting that. So I think Mr. Welu's comments about the agreement between the tenant and the landlord is a very good idea. We have a motion and a second...

Councilman Garde: I did have one other piece of discussion. In two or three places here it refers to another Chapter 136 and it suggests that we comply with other applicable sections.

TAPE ENDED AT THIS POINT; THE FOLLOWING WAS ADDED TO SUMMARIZE COUNCIL DISCUSSION AND VOTE

- d. An Ordinance to amend Town Code Chapter 209, Section 35, relating to parking violations and penalties
Motion was made and seconded to approve Ordinance 2015-002 as submitted.
All approved.
- e. Appointment to Planning and Zoning Commission
Provided in a memo, Mayor Jones recommended George "Kevin" Kelly be appointed to the Planning and Zoning Commission. A motion was made and seconded to appoint Kevin Kelly as recommended. All approved.
- f. Appointment to Historic Preservation Commission
Provided in a memo, Mayor Jones recommended Richard "Rich" Miller and Diane Hake be appointed to the Historic Preservation Commission. A motion was made and seconded to approve the appointments as recommended. All approved.
- g. DNREC Coastal Management Assistance Program Application and Resolution 2015-001
A follow-up to Council discussions on January 5, 2015, presented is the complete grant application and Resolution 2015-001. Approval of both will allow Kristy Rogers to submit the application to the Delaware Coastal Program, DNREC, for Milton's proposal of Sea Level Rise adaptation, and vulnerability study. A motion was made and seconded to approve the grant application, documentation, and Resolution supporting the Town staff's work in filing for a grant from the Delaware Coastal Programs. All approved.

16. Executive Session:

- a. Strategy sessions, involving legal advice or opinion from an attorney-at-law, with respect to collective bargaining or pending or potential litigation, when an open meeting would have an adverse effect on the bargaining or litigation position of the public body
- b. Personnel matters in which the names and abilities of an individual employees are discussed

17. Discussion and possible vote on Executive Session items

18. Adjournment