Milton Town Council Meeting
Milton Library, 121 Union Street
Thursday, May 20, 2010
6:30 p.m.

[Minutes are not verbatim
Recording Secretary: Helene Rodgville]

1. Call to Order - Mayor Newlands

2. Moment of Silence - Mayor Newlands.

3. Pledge of Allegiance to the Flag

4. Roll Call - Mayor Newlands

C Lester	Present
C Martin-Brown	Present
C Duby	Present
C Abraham	Present
Vice Mayor Betts	Present
Mayor Newlands	Present

5. Additions, Corrections and Approval of the Agenda
Mayor Newlands: Any additions or corrections to the Agenda? Can we have a motion to approve the agenda?
Vice Mayor Betts: I make a motion to approve the agenda, as presented.
C Abraham: Second.
Mayor Newlands: We have a motion and a second. All in favor say "aye". Opposed. Motion carried.

6. Approval of Council Minutes: April 29th, 2010 and May 3rd, 2010
Mayor Newlands: We just got those today. I think we should table those until the June meeting. I haven't had a chance to read them; I don't know if anybody else has either. Can we get a motion to table them?
C Lester: I make a motion to table the minutes for April 29, 2010 and May 3, 2010 until the next meeting.
Vice Mayor Betts: Second.
Mayor Newlands: We have a motion and a second. All in favor say "aye". Opposed. Motion carried.

7. Old Business
   a. The Milton Town Council is Sitting as the Board of Appeals and will hear 2010 Property Tax Appeals for Chestnut Properties, LLC
   Mayor Newlands: And who do we have?

Bill Manning: I am Bill Manning, I represent the taxpayer. Let me introduce my sidekick here, Richard, he's with me tonight and you're going to hear from Harold Carmine who's right here and he is the appraiser and he has been asked to take a look at the appraisal. I won't go through the preamble; there's been a dispute; your counsel and we have gotten together and from that has emerged an agreement that there will be another hearing and so that's why we're here tonight. I don't think the past matters. There are four pieces of ground that we want to talk about. The assessment that we want to talk about tonight and I think let's do this; if you all don't mind, because you really have to hear it from the experts, rather than from me, I would simply introduce Mr. Carmine and I'm going to ask him a few questions, that he's essentially simply going to tell you of an appraisal that he has done on each of the properties that we're going to be talking about. Is that acceptable?
Mayor Newlands: It's fine with me. We have David Hickey and, sorry Matt Hickey.
Bill Manning: Okay, now, where would you like Mr. Carmine to sit or stand?
Mayor Newlands: Do we have a microphone?
Bill Manning: We also need microphones.
Mayor Newlands: To record, we do. For the recording we do.
Bill Manning: We shouldn't sit that close together because of feedback. Do you swear witnesses?
Seth Thompson: I think that would be good. The Clerk could swear you in.
Stephanie Coulbourne: I do, but what wording are we using?
Seth Thompson: Do you solemnly swear to tell the truth, the whole truth, so help you God?
Bill Manning: Would you like to do the honors and I'm calling Mr. Carmine.
Stephanie Coulbourne: Mr. Carmine, do you swear to tell the whole truth before this Council tonight regarding the assessment appeal for Chestnut Properties?
Harold Carmine: I do.
Bill Manning: Mr. Carmine, before we talk about the four parcels about which there is an apparent dispute, I guess let's start where there is an agreement. In the letter furnished to the town by its consultant, Property Tax Associates, there is conversation, and I'm on Page 8, about three parcels, at the bottom of Page 8 there are three parcels referred to there and those three parcels are given a value in this report of $5.00 per square feet. Have you had the opportunity to consider that valuation and, if so, do you agree with it?
Harold Carmine: I've had an opportunity to consider that, yes; and I agree with that.
Bill Manning: Okay. We will not be having any further testimony. Assuming that the value reported by the town's consultant in this letter remains the assessment that you all support and I think it is; there's no need to have further conversation about those parcels.
Seth Thompson: Can you confirm that?
Bill Manning: Okay. All right. Now, Mr. Carmine, before you talk about any of the parcels in question, let me ask you a little bit about yourself. You've

given your name and you've taken the oath; tell me a little bit about your education and background and experience.

Harold Carmine: I have a Master's Degree in Business Administration from Wilmington College; I have 20 years of real estate experience; actually, I have more than that; I was Director of Assessments for Sussex County for 12 years; and since 1991 I have owned my own appraisal business, Carmine Appraisal Group.

Bill Manning: And are you a Certified Appraiser?

Harold Carmine: Certified General Appraiser, yes.

Bill Manning: If I understand you correctly, the thing that we are talking about tonight is tax assessments and am I correct that you were in charge of that for Sussex County?

Harold Carmine: Yes, for 12 years.

Bill Manning: So this is not a subject that's unfamiliar to you, is that right?

Harold Carmine: Correct.

Bill Manning: Let's go through the four parcels in a row. I'm going to first ask you whether your attention has been drawn to the value given to 20; I think 20 residential lots; in a development called Preserve on the Broadkill.

Harold Carmine: Yes.

Bill Manning: And what were you asked to do with respect to those 20 lots?

Harold Carmine: To analyze and look at the assessed values, as determined by Property Tax Associates in the Town of Milton and then to render whether that was a fair assessment or not; and if not, to render my opinion of the fair market value as of the effective date of the appraisal; which was July 1, 2009.

Bill Manning: Okay. We'll talk in a minute about Property Tax Associates. I'm going to call them PTA, if that's all right, PTA's opinion. Let's first talk about what you did to come to… What did you look at? What did you think about; in order to come to your own opinion, about the fair market value of these parcels?

Harold Carmine: One of the first things I looked at, as you do any time we're doing a residential appraisal, we look at market trends in the market area of where that particular property is. In this case, we looked at the Broadkill Hundred and data from the Multi-List Service, which is a database compiled by the Sussex County Board of Realtors. I looked at that data and observed trends from 2007 to 2009.

Bill Manning: The valuation date we're talking about is July, 2009, right?

Harold Carmine: Correct.

Bill Manning: And you just mentioned a period of time 2007 to 2009.

Harold Carmine: Correct.

Bill Manning: Do you regard that as an extraordinary period of time in terms of the activity in the real estate market and the movement, the volatility of real estate value?

Harold Carmine: Yeah, there was a significant degree of volatility in the market from the period of 2007 to 2009 as our data showed. 2007, as you see on the chart, what we did was we looked at…

Bill Manning: Before you get to that chart; we'll get there real quick; because I'm not going to take anymore of your time. Have you ever seen a period like that before?
Harold Carmine: Not in the 20 years that I've been appraising; the decrease in value over that time period.
Bill Manning: Is it fair to say and I'm telescoping, I'm jumping ahead here a little, Harold; is this taking into account the change in value from 2007 to 2009; is that probably the major difference between you and the value assessed by the Town?
Harold Carmine: If according to their documentation and the letter received from them; they stated in the response to us that they took the market data from 2007 and 2008 sales.
Bill Manning: Okay, before we go on, I just want to make sure that when Mr. Carmine refers to what he thinks your assessor thought, he's referring to a letter and you all have the letter; but I want to make sure that we're talking about the same thing. He's referring to a letter of January 15, 2010 from Property Tax Associates to Mr. George Dickerson.
Harold Carmine: That was the same… It was my understanding that the night that I came to the first scheduled appeal, that that was the recommendations that were adopted by the Council.
Bill Manning: You've asked us to put this grid on the screen. Tell me what it shows and why is this information important to you.
Harold Carmine: It shows the trend of the decrease in values from 2007 to 2009.
Bill Manning: This is for what area?
Harold Carmine: For the Broadkill Hundred which includes Milton.
Bill Manning: Okay and I see some columns on the left; what is that?
Harold Carmine: Yes, the columns on the left show you, for an example, right now there are 218 single family dwellings listed for sale in the Broadkill Hundred, of which only 23 are under contract.
Bill Manning: These include houses, right?
Harold Carmine: Yes, correct. Likewise, you have 225 single family lots on the market, with 5 under contract.
Bill Manning: So in the area you are talking about, if I do it this way am I correct, there are 230 single family lots for sale in the area that you're describing?
Harold Carmine: Correct.
Bill Manning: And there are 5 buyers?
Harold Carmine: Correct.
Bill Manning: And so the owners of 230 lots are chasing, so far, 5 buyers.
Harold Carmine: Correct.
Bill Manning: I'll ask you a question and don't criticize me for asking a dumb question or an obvious question. What does that do prices?
Harold Carmine: Decreases them.
Bill Manning: Okay.

Harold Carmine: Obviously there's an over supply on the market. An oversupply on the market that is going to be valued above; or priced above their market value.
Bill Manning: You've listed your 2007, 2008 and 2009; tell me what's going on here.
Harold Carmine: Well, for an example, the first column of the single family dwellings, you see the number of dwellings sold and they range in 2007 there was 99; in 2009 there was 80; so that's a decrease of almost 20%. Likewise the average single family home sale price in that 100 was $367,760 in 2007; decreased to $266,375 in 2009. You see the days on the market, which means that that's the time they've been on the market. The days on the market means the number of days that that particular average property has been exposed to the market; you see that significantly increased. When we go down to the single family lots, it's even worse. You see a total of 63 sales in 2007 and only 10; and this is from the Multi-List data in 2009; so you see a decrease of 84% from 2007 to 2009. Likewise you see an average lot price in 2007 of $211,639 decrease to $88,710 in 2009; so that's almost a 60% decrease over the 2 year period. Likewise, you see the increase in the average days on the market that a property is exposed to the market. So what this in sense shows you is that the decline in property values from 2007 to 2009. What that means is you almost have to use data in 2009 to come to your value conclusions.
Bill Manning: Okay, or if you use data from earlier years you would have to adjust it downwards, is that right?
Harold Carmine: Significantly downwards.
Bill Manning: All right. What else have you looked at or thought about in determining the value of these 20 lots that we're talking about?
Harold Carmine: Well we actually, after we looked at the market trend, we actually did a sales comparison approach.
Bill Manning: Let me interrupt you. Are you all able to see this?
Mayor Newlands: It's a stretch, but yes. Black on gray is never real good.
Bill Manning: Okay while we're all struggling to see this. You've just told us what the general trends were for finished homes and for vacant lots and that particular 100 for three years. What does this data tell us?
Harold Carmine: The data you have on the screen now is actually lot sales in the Milton area. Sales two through five are sales in Sunland Ranch; which is just outside the corporate limits of Milton. Sale one is an actual sale that has just closed in our subject property, the Preserve on the Broadkill.
Bill Manning: By the way, this is informal and if you all have any questions, please speak up. You're the important audience and my job is to answer your questions; so please feel free to interrupt at any time. Thanks go ahead, Harold.
Harold Carmine: So, sales two, three, four and five are in Sunland Ranch; they show a sale date from August of 2009 to September of 2009; a price range of $81,000 to $85,000. Sale one is an actual sale that occurred in May, 2010 in the Preserve on the Broadkill, which is our subject; that sold for $85,000.

Then we make adjustments to the sales and we actually adjusted, if we go down for location; we adjusted upward for the sales in Sunland Ranch; because they are not in the town limits; but they are slightly larger in size; so we adjusted downward for that. So at the bottom, basically after you look at the differences and similarities of the two properties, we show a range in values of $81,000 to $85,000 per lot for Preserve on the Broadkill. That is based on the trends that we observed in the market for the Broadkill Hundred; that is based on actual sales data here and we came up with the conclusion of $85,000.
C Martin-Brown: May I ask an information question on Sunland Ranch? Is that on a sewer system or is that on septic?
Harold Carmine: Septic.
C Martin-Brown: Thank you.
Mayor Newlands: And its low water, also, I assume.
Harold Carmine: Yes, I think so.
Mayor Newlands: And you have a row there called overall utility; good vs. average? What does that mean?
Harold Carmine: That's just whether or not the property has central sewer; doesn't have central sewer; things like that; shape.
Bill Manning: Anything else?
Mayor Newlands: The lot form at the Preserve should be marked good, then. It should contain the average lot size at the Preserve, right?
Harold Carmine: Correct.
Mayor Newlands: And if you don't mind going back to the previous line of questions that were interrupted.
Harold Carmine: I'm sorry, on what?
Mayor Newlands: Since we're interrupting your questions, if you could go back on the previous slide, you compared houses in 2007, 2008 and 2009; are all those the same styles, size.
Harold Carmine: No, no, what that involves is…
Mayor Newlands: They're not comparable homes?
Harold Carmine: What that involves is an average sale price of all the homes that have sold in the market.
Mayor Newlands: Okay thank you.
Bill Manning: So it would include sales of comparable homes that took place and sales of homes that wouldn't be comparable and would have be adjusted.
Harold Carmine: Right and in answer to that question.
Bill Manning: It's the universal data sect.
Harold Carmine: The same homes are going to be on the market in 2007 as there are in 2009, probably.
Bill Manning: Okay, let's get back to your conclusion. You've told us about trends; you've looked at comparable sales; you've made adjustments for those comparable sales; you found a sale in Preserve on the Broadkill and you're conclusion of value for these 20 lots, was what?
Harold Carmine: $85,000.

Bill Manning: And what's your understanding of the assessment, or the recommendation; the recommended assessment by Property Tax Associates?
Harold Carmine: Was $140,000 per lot.
Bill Manning: Seth, if my understanding is correct, that's the assessment that has been set by the Town, is that correct?
Seth Thompson: I believe that's correct, yes.
Bill Manning: Okay. Well there's quite a difference there. Tell me, well what do you know about the basis for the Town's assessment; what data do you have?
Harold Carmine: I don't have any data of where they came up with those values; but in their response, they state in their response on Page 7 that their value was based upon a number of lot sales ranging from $135,000 to $260,000 which occurred in 2007 and 2008. And they also took into account the listings of the subject properties, which at the time ranged, I think, from roughly $120,000 to $189,000 and I think they took an average and then took a 25% discount and came up with a $141,750.
Bill Manning: Let me first ask you about the use of listings in determining the fair market value of a piece of real estate. First of all, when you were appraising ground for Sussex County, did you use listings?
Harold Carmine: No.
Bill Manning: And why not?
Harold Carmine: Well, if you ask me when we were assessing; we didn't assess on current market value, when we were with the County. It's based on 1974.
Bill Manning: You found the value, but then you rolled it back.
Harold Carmine: Correct. Correct. The listings were not used.
Bill Manning: You started by finding a current value.
Harold Carmine: Correct.
Bill Manning: I guess my question is would listings be contracts for sale?
Harold Carmine: No.
Bill Manning: It's just a question of what somebody is asking for his or her real estate, right.
Harold Carmine: Correct.
Bill Manning: Okay. Go ahead.
Harold Carmine: There's nothing wrong with analyzing a listing and looking at it and coming up with a sale price for the property; the discrepancy that I found is that these lots in the Preserve on the Broadkill have a listing date of 2007; and they're averaging $140,000; you can clearly see by the market data; you can clearly see by the sale in the Preserve on the Broadkill; that that listing is way out of whack.
Bill Manning: So, if I had a listing in 2007, presumably the sale price would be at or below that number, correct?
Harold Carmine: Correct.
Bill Manning: And that number is two years before; assuming it occurred right in the middle of 2007; that's two years before the date of valuation that you're looking for.

Harold Carmine: Correct.
Bill Manning: And you demonstrated that for lots, vacant lots, there was a 60%, nearly 58% fall off in that price.
Harold Carmine: Correct.
Bill Manning: And so give me again then and tell these folks your view about, well, what you can surmise about the basis for the recommended appraisal and why it is defective.
Harold Carmine: Again, it's my opinion according to their letter, that they took 2007-2008 sales as a basis for their valuation. I could not find any sales data in the Town of Milton that reflects a value for a lot of $140,000 in 2009. That's why we extended outside to Sunland Ranch and you have a 2010, right within the subject property at $85,000, less than 7 months after your date evaluation.
Bill Manning: Do any of the members have questions; I know you're going to hear from your Appraiser in a minute; do any of you have questions about Preserve on the Broadkill; because if you don't, I'll move on to the next piece of ground.
Mayor Newlands: About the development or questions about the appraisal?
Bill Manning: About the value of those 20 lots; and Mr. Carmine's testimony.
Mayor Newlands: The only question I have is the land value of the homes out there. Are they the same as the land value of your lots? I remember during the assessment, they broke the assessment down into two portions; one was the land value and the home value.
Bill Manning: I'm not following what you're asking me.
Mayor Newlands: Well the assessment came out and Mr. Hickey will tell us later.
Bill Manning: These are vacant lots.
Mayor Newlands: But for a home, they broke the assessment down into two components; of land value and a home value. I live in Wagamon's West Shore and I have a $120,000 land value and a $200,000 something home value.
Bill Manning: Okay.
Mayor Newlands: So I was just curious if all of the land values for all of the Preserve were at $140,000.
Bill Manning: I think so, yes.
Mayor Newlands: They are, okay.
Bill Manning: Let's talk about Cannery Village, Phase 2.
Harold Carmine: Your assessment… You live in Wagamon's West Shore?
Mayor Newlands: Yes.
Harold Carmine: And the assessment on that lot was $120,000?
Mayor Newlands: Yes.
Harold Carmine: So that correlates to $120,000, they had a value of $140,000 on their lots on the Preserve on the Broadkill; there's a lot in Wagamon's West Shore that just settled for $85,000; according to the Multi-Listing MAC.
C Duby: It's selling for what?
Harold Carmine: $85,000.

Bill Manning: It sold.
Harold Carmine: It sold. So the correlation of the two there are the same, according to what?
Bill Manning: Cannery Phase 2?
Harold Carmine: Yes.
Bill Manning: We have also called into question the assessed valuation for 60 residential lots in Phase 2 at Cannery Village; 23 of them are single family detached and 37 are single family attached and I don't know what you call them. I've heard them referred to as semi-detached; that's what I'll use. These are two homes joined in one building; each on their own lot. I call it semi-detached just for glossary purposes. Had you appraised those lots Mr. Carmine?
Harold Carmine: Yes.
Bill Manning: Tell me what conclusions you drew about them? Did you separate the values and did you draw different conclusions with respect to the single family detached and what I'll call the semi-detached?
Harold Carmine: Yes, we refer to them as single family FFD and FFA.
Bill Manning: FFD and FFA?
Harold Carmine: SFD single family detached and SFA single family attached.
Bill Manning: Okay and what were your conclusions?
Harold Carmine: We came up with a value conclusion for the single family detached of $60,500 and for the single family attached of $51,500.
Bill Manning: And tell us how you arrived at those values.
Harold Carmine: This is rather lengthy. Basically, we looked at sales that occurred in Cannery Village from buying homes in Capstone Homes. It was brought to our attention when we met with Property Tax Associates that these were take down of lots and therefore they weren't true market value. So do you want me to go into how I came to that conclusion?
Bill Manning: Sure.
Harold Carmine: Okay. So what we did, we essentially took sales in Cannery Village, which is your first chart up there and we showed the average sale price for 2007, 2008 and 2009. And again, you see a decrease in the sales. Likewise the first chart that you have or the top chart that you have shows the finished product sale in Cannery Village for Phase 2, for these lots. So, for an example, in 2009, it shows 19 sales with an average sales price of $228,259. If you go to the chart below that top chart, you see the historic take down of lots; these are the lots that were sold by the developer to the homebuilder, be it Ryan Homes or NBR, I think it was. Okay, for an example in 2007, that average price was $83,587; in 2009 that average price was $59,500. Okay? Are we clear on that? Do you understand where I'm going with that? Okay. So the next chart, in Cannery Village takes the average take down price of lots; for example, the average take down price sold by the developer in 2007 was $83,587; in 2009 it was $59,500; that's the same data you have on your first chart. We compared that with the total average sale price within that sub-division. The reason we did that was to come up with a ratio of the lot price to the total sale price of that property. Those ratios ranged from 21.6% to

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26.1% with an average of 24.1%; so we need to test and see if that ratio is correct. In other words, what we're saying is that the average take down price of those lots over the three years showed an average of 24.1% ratio to the total sale price. So then we took ___ and this is all done through the Multi-List; we took the average sale prices of homes in Pemberton, Sunland Ranch and Villages of Red Mill Pond and compared those ratios with the average sale prices for the same time period in those three sub-divisions and came up with a ratio from 24.7% to 28.07%. So from that you can conclude that the take down in lot prices are market value; because the ratios are similar to other sub-divisions in the Milton market area.
Bill Manning: Let me see if I can understand the difference of opinion here. We had actual sales data for these lots, is that right?
Harold Carmine: That is correct.
Bill Manning: But that data has been challenged by the town's consultant because these were lots purchased by builders.
Harold Carmine: Correct.
Bill Manning: He's either right or wrong, that's either a reliable price or not a reliable price, right?
Harold Carmine: Correct.
Bill Manning: In order to conclude whether it's a reliable price or not, you looked at the sale of finished homes.
Harold Carmine: Correct.
Bill Manning: You derived a lot price, just as the Mayor said. Assessments come with a value assigned to the lot and a value assigned to the improvements; and by looking at that data, what did that tell you about say the legitimacy of the actual sales prices for these lots?
Harold Carmine: That they correlated with the same ratios that other sub-divisions in the Milton market area did.
Bill Manning: So is there any reason, when you've got actual data, is there any reason to vary from that data in order to figure out what the value of the lot was.
Harold Carmine: In my opinion no.
Bill Manning: Okay.
C Duby: Excuse me, can I ask a question? I want to make sure that I understand something you said earlier. The reason that you're not including comparisons with in town developments like Wagamon's or Chestnut Crossing or something that would be in my mind more comparable; is that there were no sales during that time to compare with, is that what you said?
Harold Carmine: In the 2009 era. Now we do have listings in Wagamon's West Shores. I assume you're going back to the Preserve on the Broadkill?
C Duby: No, I'm even here with Cannery Village, it seems to me that Chestnut Crossing for example would be a closer or Wagamon's would be closer than something like Sunland Ranch; something outside town.
Harold Carmine: I don't think so; Wagamon's West Shores is a single family development; these are smaller lots; the single family detached lot is like 5,000 square feet; single family attached lots are like 3,500 square feet.

Mayor Newlands: You're doing the same thing. You're comparing small lots with small homes: Pemberton, Sunland Ranch and Red Mill Pond area. You're doing the exact same thing you just said you shouldn't do.
Harold Carmine: No, no, no. No way.
Bill Manning: May I respond to that?
Mayor Newlands: Sure.
Bill Manning: The absolute values don't matter; big lots, small lots; what does matter is the ratio; the value of the lot to the overall value of the sale. So you can look at big or little lots in order to derive that value; but the point is you see a very narrow range of ratios there. If you apply those ratios to any sales data you get lot values which then you come back to this piece of property and the lot values that have actually been recorded in actual sales turn out to be that same ratio to the value of the entire parcel with a finished home on it.
Mayor Newlands: Can you tell me the lot sizes vs. the house sizes?
Harold Carmine: On which one?
Mayor Newlands: On the second to the last chart in Cannery Village, where you have the ratios. If the lot sizes are all fairly the same and the house sizes are all different, that ratio is going to change constantly. I'm asking what you're comparing, that's all.
Harold Carmine: When the builder took down a lot in 2009, let's take that; when those builders took down those lots, they built homes on those lots. So the take down of what they originally paid for it was $59,500 average; their finished product was $228,259; so the same homes…
Mayor Newlands: No, it's not the same homes, because you have Capstone out there now at 1,200 square foot homes. That's what I'm getting to. You have different size homes out there now. So you have a much smaller home; literally half the size homes out there now and the same size lots. So 50 X 100 is 50 X 100.
Harold Carmine: I understand that.
Mayor Newlands: So a 1,200 sq. ft. home vs. a 2,400 sq. ft. home on the same lot, that's a different value.
Harold Carmine: And that's a good point. What that's going to show is still a 1,200 sq. ft. If that's what the market is, that's what their going to pay for that finished product.
Mayor Newlands: I'm still a little confused with that.
Harold Carmine: That's indicative of a lot… If they had decreased their home size to 1,200 sq. ft. then that's what the market is bearing at this time.
Mayor Newlands: That's not what they're offering; they're still offering the 2,400 and 2,800 sq. ft. homes; so I'm just trying to ask what you're comparing. Because two years ago they weren't offering the 1,200 sq. ft. homes; they were only offering the 2,400, 3,200 sq. ft. homes.
Harold Carmine: The correlation of the lots, when they buy a lot, they're going to put… When they buy that lot… When the builder buys that lot, they know what product they're going to put on that lot and that's indicative of the finished sales price.

Mayor Newlands: Yes and no, because the Capstone Homes are in a certain section of Cannery. I would like to know what lots you're talking about; whether they are the lots that go with the 2,400 sq. ft. homes or the lots that go with the 1,200 sq. ft. homes; because that changes the math.
Harold Carmine: They're all the same size lots; they're either 3,500 sq. ft. lot or a 5,000 sq. ft.; I don't know the answer to that question.
C Martin-Brown: Excuse me, I am a little confused by the methodology, because if you are assessing a property and it's a lot only, but the protections are different with a house on it and I'm not very bright on this; once the builder puts a house on that lot; that market value is transformed to a different level of value and the ratio of how much the builder is getting for the smaller house vs. how much he was getting for the larger house with the change in market; he's trying to maintain the same ratio. One might call it up front investment shrinkage; but the profit margin remains pretty much the same ratio.
Harold Carmine: You would hope.
C Martin-Brown: Right, right. So one can apply any methodology to it, but as a builder you're not going to build the same 50 X 100 house that torques your profit margin so much lower that you might as well not build anything on that lot; so the assessment process is trying to pin that in a very volatile, as you described it, market and the challenge you face is to hit the bull's eye on a moving target, in a moving market, when the target changes from 2007 to 2010; which also describes why I don't invest in the stock market; because the problem is the price fluctuations. If there is an assessment made, there's got to be some basement that assessors have to cling to, to do the job you've been asked to do. Do I understand this correctly, Sir?
Harold Carmine: You are absolutely right in every statement you made and I agree with you 100%; that it's a moving target. The problem is that the target has decreased so much from 2007 to 2008, for whatever reason, the valuation date is the valuation date. That's the date that Property Tax Associates, whoever, decided that that is the value of that property.
C Martin-Brown: Let me clarify that for you. I was Chair of the rewrite of the Town Charter. Two of my colleagues were on that Committee and can validate what I'm saying. There was very strong feeling among the members of that Committee that this Town needed a new property assessment, so the gentlemen contracted to do that could only do that, once the Charter had been adopted by the State Legislature; and that's when they commenced work. It wasn't an arbitrary date looking at a high market or a low market.
Harold Carmine: I understand that.
Bill Mann: In fact, we understand that, very well and we assume that if you could have chosen another time, you probably would. You ended up picking the bottom of the market. But the appraisals that you got didn't reflect that and that's the fundamental difference here tonight.
C Martin-Brown: But that's a risk we take, Sir.
Harold Carmine: Oh, yes, we're not faulting you.

Bill Manning: The only question tonight is whether the valuation set by the Town is a fair valuation as of July 1, 2009. Our only point was the data from 2008 and 2007, given what you just said, which was there was an enormous fall off in the value of real estate, that data doesn't accurately tell you and in this case, let me come back to the reason we had this analysis is because the Town rejected actual sales data on these lots. Harold, what's your understanding of why the Town rejected the actual sales data for these lots?
Harold Carmine: Because they were to developers.
Bill Manning: Why does that matter?
Harold Carmine: In a strong market where there are huge take downs in bulk sales, the builder may and some times can, get a discount on the lot. However, in this case, with the transaction of sales that occurred in 2009, over the time period, I think, it was like 16 sales over the course of the year, it was my opinion that that did not constitute a bulk sale; what we call a typical bulk sale purchase; because they were purchased in different months. If you look at the sales sheet when they were bought, I don't think there were more than two bought in any one month.
Bill Manning: And did you talk to the builders?
Harold Carmine: No.
Bill Manning: Do you know whether when those sales took place there were contracts for the finished home on those lots?
Harold Carmine: According to the developer, the developer stated in my conversation with him, because I had the same question, that Ryan Homes would not take down a lot until they had a buyer for that home.
Bill Manning: So this wasn't the bulk purchase of raw lots by a builder on which the builder was going to build spec houses?
Harold Carmine: Correct.
Bill Manning: And given what you understand and the information that you got from the developer in this case, do you have any basis to conclude that the values of the actual sales data should not be the basis for setting the fair market value of these lots?
Harold Carmine: No.
Bill Manning: Let's talk about Cannery Village, Phase 3.
C Duby: Can I just talk about one question before you leave? You gave us the direct evaluation of the Preserve on the Broadkill; it was $85,000 vs. $140,000 there. Can you tell us what it is at Cannery Village?
Harold Carmine: Yes, Property Tax Associates valued each lot at $80,000.
Bill Manning: Her question is what did you value Cannery Village at?
C Duby: I want both; what they valued it at and what did you value it at?
Harold Carmine: For Cannery Village, Phase 2, Property Tax Associates assessment was $80,000 on each of the lots; and our valuation was $60,500 for a single family detached lot and $51,500 for a single family attached lot.
C Duby: Thank you.
C Martin-Brown: Can I ask an extraneous question? Going to your point that there were only two sales of the land from the landholder to a builder and only when you had a person wanting to build a house on that land, under Ryan, or

whoever was the builder for that land, the land owner was not the builder, is that correct?
Bill Manning: From property owner/developer to homebuilder to ultimate purchaser?
C Martin-Brown: Right. So the land developer wanted Ryan Homes, who had a builder, would then sell that land to Ryan Homes, is that correct?
Bill Manning: Ryan Homes is the builder in the examples that he is talking about. Once Ryan Homes found a builder, Ryan Homes would come to the developer and say I'm ready to buy these lots.
C Duby: You mean a buyer, don't you?
Bill Manning: I'm sorry, yes Ma'am.
C Duby: Once Ryan found a buyer, they'd go to the developer and say I'll take the lots.
Bill Manning: You're correct. Yes.
C Martin-Brown: Now, just follow a question; when the landowner/developer transacted that land to the builder, was a transfer tax paid?
Bill Manning : It should have been.
Harold Carmine: I don't think so; I'm not sure on that. In other words, from the developer to the builder? I can't answer that; I'm going to say, I don't think so.
C Duby: Do you think it was paid by the buyer?
Bill Manning: Ever?
Harold Carmine: It was paid by the buyer.
Bill Manning: Oh, okay.
C Martin-Brown: But by the buyer from Ryan?
Bill Manning: Correct, the finished product.
C Martin-Brown: Right, but not from the land developer to Ryan. That's what I wanted to know.
Mayor Newlands: I think that question came up in December?
Bill Manning: My only point is, if you're looking for the value of the lot, which is what's out there, we've got X number of unimproved lots; you've sold unimproved lots; we know what they've sold for; that data should be the basis for the valuation; that's the argument.
C Martin-Brown: Thank you.
Bill Manning: Let's talk about Cannery Village, Phase 3. This is nearly 57 acres and its part way through the approval process and it was seeking, I'll say before the crash, when it was actively being developed; it was seeking plan approval for 164 residential lots and 8 acres of commercial for community amenities/for community neighborhood commercial. Do you have an opinion of value for Cannery Village, Phase 3?
Harold Carmine: Yes.
Bill Manning: What is that opinion?
Harold Carmine: $2.402 million.
Bill Manning: Okay, now tell me how you got there?
Harold Carmine: Okay, first of all there are two sections to the report. The first we dealt with was preliminary approval for the 164 units.

Mayor Newlands: Excuse me; can we have copies of that?
Bill Manning: Let's wait until they catch up with us here. There's nothing on this property, right?
Harold Carmine: Correct.
Bill Manning: Have the improvements been installed; roads, sewer?
Harold Carmine: No. It's vacant land.
Bill Manning: This is vacant land. This is land to be developed?
Harold Carmine: Correct.
Bill Manning: And I'm just going to ask you about this; you can go through it in detail and tell us how you got from A to B, but is the point of this analysis you're going to give us that… Were you interested in finding out what the yield from this piece of ground would be?
Harold Carmine: Correct.
Bill Manning: Walk us through it please.
Harold Carmine: Basically, what you have and this is complicated; but this is called a Discounted Cash Flow Analysis and what this does is it looks at the project from a development standpoint; from an investment standpoint. In other words, if a developer/investor was going to buy this property, how would they analyze the property? And we start out by determining the average price for a single family detached lot again and the average price for a single family attached lot; and in this case it was $55,000 for a SFD lot and $48,000 for a SFA lot. Then you have to determine how many units those 164 what is going to be the sell out of those units? Now we estimated a 3 year holding period before anyone would even develop that Phase. The reason we came to that conclusion is that as of the valuation date of July 1, 2009, you had 76 lots remaining in Cannery Village. So from July 1, you had 76 lots in Phase 2 of Cannery Village; after the first year, they only sold 16 lots. So from the date of your effective date of your appraisal, which was July 1, 2009 to now, you've only sold 16 lots; which means you have 60 lots which we just went over, remaining in Phase 2; so at that sales pace, it's going to take at least a 3 year holding period before you would start Phase 3. So then we begin the sale of lots and we had an aggressive analysis here…
Bill Manning: When you say you began the sale of lots, am I…
Harold Carmine: A sale of units.
Bill Manning: You are creating the scenario that hasn't taken place.
Harold Carmine: Correct.
Bill Manning: And you're doing that in order to figure out what the value of this piece of development property is?
Harold Carmine: Correct.
Bill Manning: In other words, its value is whatever it will yield?
Harold Carmine: Right.
Bill Manning: And when it will yield it.
Harold Carmine: A developer is going to look at this property and take into account what he's going to be able to sell the lots for; how fast he's going to be able to sell them; the associated costs with selling those; and the return on his investment.

Bill Manning: Why are you doing this? What was the value given – I'll ask C Duby's question about this – What was the value given by Property Tax Associates?
Harold Carmine: The total value on the entire property, I think, was $5,686,000.
Bill Manning: And yours again?
Harold Carmine: $2,402,000.
Bill Manning: And how did they, if you know, how did Property Tax Associates; from what you can tell, how did Property Tax Associates value the property?
Harold Carmine: Well according to their letter, again, in response to the Town, they originally had a value of $100,000 an acre on the property.
Bill Manning: Where did they get that?
Harold Carmine: I don't know. I think in my discussions with Property Tax Associates, I think their statement was, and he'll have to answer that, but from comparable sales in the area; and then when we met I told him about the exorbitant costs of site improvements and in their letter they factored that out and reduced that to $75,000 per lot. So their valuation is based on $75,000 pre acre for the entire acreage.
Bill Manning: Does that reflect the value of this property as a development piece of ground.
Harold Carmine: I don't think so, because you have to look at the yield that you're going to get off of that acreage. In other words, how many lots? A typical investor is going to look at how many units; he doesn't care about the size of the land; he's looking at how many units he's going to be able to sell off of that land.
Bill Manning: Okay. And so, in order to get to the value of this particular ground; have you created what I'll call a fictional development; starting with the 164 lots that are in the preliminary plan, right?
Harold Carmine: Correct.
Bill Manning: You're made assumptions about when those would be sold, correct?
Harold Carmine: Yes.
Bill Manning: Because they won't all be sold at once?
Harold Carmine: Correct.
Bill Manning: Have you made assumptions about the developer's costs of improving the ground; putting in the roads and the sewers and everything like that?
Harold Carmine: No I didn't make an assumption; I based it on actual contract costs that the developer gave me.
Bill Manning: Oh, tell me about that.
Harold Carmine: For Phase 2, they gave me in the appraisal report the developer gave me a site cost for Phase 2. I think it was around $27,000 per unit. I actually reduced that site improvement cost to $23,000 a lot; so we had actual data to support our site costs. When you say to me, you used

assumptions, there were assumptions, but those assumptions were based on market data that are supported in our report.

Bill Manning: By actual facts.

Harold Carmine: Yes, we just didn't pull numbers out of the air.

Bill Manning: So, you've reconstructed a development; you know what each lot will cost to improve; or the average cost of improvements will be per lot. Right?

Harold Carmine: Correct.

Bill Manning: You've made assumptions about when these lots would sell because of your conclusion that they won't all sell at once.

Harold Carmine: Correct.

Bill Manning: That means the cash will come in at different times.

Harold Carmine: Correct.

Bill Manning: And the present value of that cash will be different.

Harold Carmine: Correct.

Bill Manning: So you've got revenue and you've got the expense side; what did you end up concluding?

Harold Carmine: We came up with the conclusion that when you say; in other words, you get a cash flow over this time period; obviously a cash flow in period seven is not worth as much as a cash flow in year one; so you have to discount those cash flows; all under criteria. We came up with a value of $1,400,000 for those 164 units.

Bill Manning: Okay, and there are 8.35 acres of commercial ground?

Harold Carmine: Yes and we came up with a value of $120,000 per acre for the commercial land; which concluded a value for the commercial land of $1,002,000.

Bill Manning: What was the basis for your valuation of the commercial property?

Harold Carmine: Comparable sales in the Sussex County area.

Bill Manning: Okay. Give me the total again.

Harold Carmine: Total value conclusion was $2,402,000.

Bill Manning: Okay. If I said to you I'm just going to value it at X dollars an acre and we're not going to distinguish between land that will be zoned commercial; land that will be residential units; would you agree with me that setting a common price for different classifications of real estate is appropriate?

Harold Carmine: No. Setting a price for different classes, yes, that is appropriate.

Bill Manning: Okay. That leads to?

Harold Carmine: Can I interject one more thing?

Bill Manning: I'm sorry, yes.

Harold Carmine: Given Property Tax Associates' value on a per acre basis, we took listings in the area just to compare with, and in our report, we show a series of listing in the Milford market area; none of which are close to $75,000 an acre; they range from $15,211 an acre to $59,090 an acre, for residential properties in the Milton area.

Bill Manning: Have you told us everything you need to tell us about Cannery Village, Phase 3?
Harold Carmine: Yes.
Bill Manning: Okay, let's talk about Phase 4.
Mayor Newlands: Can I ask two questions? Do you have any approvals on Phase 3 at all, preliminary; so the 164 lots is the actual lot description of what you're going to have out there?
Harold Carmine: According to the developer, that's what their preliminary plan shows, yes.
Bill Manning: Phase 4, ladies and gentlemen, is a 27.56 acre parcel; same status, preliminary approval; 58 single family homes; and 10-twins, Harold. Is that semi-detached?
Harold Carmine: Yes.
Bill Manning: Okay.
C Duby: How many semi-detached?
Bill Manning: Ten. Do you have an opinion of value for Cannery Village, Phase 4?
Harold Carmine: Yes.
Bill Manning: What is that opinion?
Harold Carmine: $775,000.
Bill Manning: Okay and you've just walked us through what I think you called a Discounted Cash Flow Analysis. Did you use the same kind of analysis for Phase 4?
Harold Carmine: Yes.
Bill Manning: Okay. And is that the analysis that is portrayed up there?
Harold Carmine: Yes.
Bill Manning: Okay. So you got a piece of ground, once again; a raw piece of ground; the developer is seeking approval; has preliminary approval for single family homes and 10 twins; it has a value to that developer, ultimately, of whatever those lots will bring; he's got to spend some money to get there. Tell me about your analysis.
Harold Carmine: We did the same type of analysis; again we used the 3 year holding period; and, in my opinion, wow, we could have easily gone four on that, because in Phase 4, we're saying that you're only going to hold it 3 years before you develop it also; and you've still 164 units in Phase 3 to sell.
Bill Manning: You mean the ones that we just talked about?
Harold Carmine: Correct. Before you can even move to Phase 4; and that's got to affect the market. The oversupply as we showed in the beginning of our analysis in here, has got to impact the market; as of that valuation date.
Bill Manning: But are you saying that you used 3, anyway?
Harold Carmine: Yes.
Bill Manning: Which is an assumption that is conservative, or otherwise cuts in the town's favor?
Harold Carmine: Correct.
Bill Manning: Okay, go ahead.

Harold Carmine: And this has only 68 lots; so we had a two year sell out period, in periods 4 and 5; same type of analysis, putting in the expenses and discounting the cash flows to come up with a value.
Bill Manning: Now, once again Harold, you've just told us that you're going to sell 68 lots in years 4 and 5 and how many lots are being sold in Phase 3?
Harold Carmine: 164.
Bill Manning: Right and some of which are being sold in those same years.
Harold Carmine: Correct.
Bill Manning: So you've got a lot of lots chasing a finite number of buyers.
Harold Carmine: Correct.
Bill Manning: I'm reminded of the slide you put up for us first which indicated that in the area covered by that slide, you had 230 lots chasing 5 buyers.
Harold Carmine: Correct.
Bill Manning: Is there any reason to believe that won't be the circumstances under which this property will be sold?
Harold Carmine: Not under these market conditions.
Bill Manning: But nevertheless you've assumed that those sales would take place earlier, rather than later; in other words you've made assumptions that favor the Town in that regard.
Harold Carmine: Correct.
Bill Manning: Okay. And how is that property assessed by the Town?
Harold Carmine: Again, it was assessed, I think, as two parcels; according to their letter and two separate parcels at a value of $75,000 an acre. I think that's what the math comes out to. They came up with a value conclusion of $2,073,750.
Bill Manning: So the difference here is $2,073,750 in the current assessment and the opinion of value rendered by Mr. Carmine, Harold, am I right is $775,000?
Harold Carmine: That's correct.
Bill Manning: Nearly a third.
Harold Carmine: Correct.
Bill Manning: Okay.
C Duby: I have a question because I understand what you're laying out; this fictional development and figuring in this fairly complex analysis; but I want to make sure I understand and I'm oversimplifying because I see this in a simplifying way, because I'm not a pro. My understanding of a tax assessment is that you have a date, in this case July 1, 2009; and it's what that property is worth at that time; or it's what its assessed at, at that time.
Bill Manning: Fair market value.
C Duby: Yes. And when you talk about figuring it would be three years before it could be sold and you make an assumption; maybe it's not an assumption and I heard your distinction earlier; that the market is probably not going to come back real quickly; so it's not going to be any better; we're still going to be chasing the few buyers and so on; I'm not quite sure I understand the difference between that analysis and the charge that the assessor has which

is what is the value today. In other words, I get it, that the owner of this property isn't probably going to be doing anything with it for 3 or 4 years; you're probably right; but if I'm the assessor, don't I say, well if somebody came in today and bought this property, what would they pay? So I guess the question I have for you is, is your analysis a way of getting at all of the things that would be considered, if I came in and said I want to buy that lot; rather than I'm going to do that analysis and here's what it will be worth five years from now when they might get around to developing it.

Harold Carmine: Excellent question. The value that you have, when we take that spreadsheet, like for an example in your... Let me get to mine, because it's clearer… When you take the cash flows, if you look at where it says net cash flows…

Bill Manning: Let me interrupt you and let me ask her a question. It's today, it's not two years from now; it's not three years from now; its today. You've got a piece of ground that hasn't yet been developed; you haven't put the infrastructure in yet; but I want to know today what it's worth and so I come to you and I say, Harold, what's it worth to you today? I'm a willing buyer, you're a willing seller; I'm thinking about buying the whole thing. Tell me what it's worth. And is the answer to that question derived from this analysis?

Harold Carmine: Yes.

Bill Manning: Even though the lot sales won't take place for 2 years, 3 years.

Harold Carmine: Right.

C Duby: So in fact, this was the second part of my question, in fact what you're doing is you're doing the analysis as a way to say it's worth $775,000 today because this is what a seller and a buyer should be considering; what am I going to do with this ultimately and that kind of thing?

Harold Carmine: When you use the term today, that's July 1, 2009; which takes into account that we're already in 2010; so one year has already passed. When you look at a 3 year holding period, you go wow.

Bill Manning: Let me ask another question, this is a complicated analysis and it involves some assumptions; some real facts; but it involves creating a fictional development that hasn't taken place, correct?

Harold Carmine: Correct.

Bill Manning: Now, if there was the exact same piece of property right across the road and it sold yesterday, would that tell you what it was worth?

Harold Carmine: Yes.

Bill Manning: Did that happen in this case?

Harold Carmine: No.

Bill Manning: Is that why you have to do this?

Harold Carmine: Yes.

Bill Manning: Okay.

Harold Carmine: There is one listed, though.

C Duby: At what?

Harold Carmine: They have their property listed. This property is listed for sale and it's way up high in the sky.

C Duby: This is Phase 4.

Harold Carmine: Yes, or no, I'm sorry. I don't know if Phase 4 is listed, or 3; I think it might be 3. There is a property across the street that is 86 acres; that it is my understanding that MLS says that the property is…
Bill Manning: What's MLS?
Harold Carmine: Multi-List Service says the property is annexed into the town. My conversations with that seller says it's not annexed, because you guys are disputing whether or not… So you know the property I'm talking about.
C Duby: We know what you're talking about.
Bill Manning: We don't want to open wounds here, Harold.
Harold Carmine: That property, assuming that it gets annexed, is listed for $3.9 million, with 342 units.
Mayor Newlands: That's 66 acres, not 86 acres.
Harold Carmine: Right. With 342 units though, which comes out, when you take the 20 acres away, give them the 66, comes out to $59,090 an acre. That's a listing that has been exposed to the market for 13 months.
Bill Manning: An acre?
Harold Carmine: An acre.
Bill Manning: Okay.
C Duby: And what was the figure again, per acre?
Harold Carmine: $59,090.
Mayor Newlands: Do you have Phase 3 on the market?
Harold Carmine: Yes.
Mayor Newlands: What is it on the market for?
Harold Carmine: That's in the report.
Bill Manning: Let me do that now, it's a good segue. Have you prepared a written report that you're going to give to the Town, covering everything that you've said here tonight?
Harold Carmine: Yes, I have.
Bill Manning: Let's go ahead and do that and I would like it to become part of the record.
C Martin-Brown: Am I correct in assuming that these 4 parcels are all owned by the same developer?
Bill Manning: Essentially yes, there are different investors and different deals; but essentially yes.
C Martin-Brown: Thank you.
Bill Manning: I guess I'll answer that another way. They have an individual in common, as I said; each has different investors in principle; they do have one individual; one development entity in common.
C Martin-Brown: Thank you.
Mayor Newlands: Do you have another one of each for our records?
Harold Carmine: What we're giving you is an actual appraisal report for each of the four pieces of property that we've talked about here.
C Martin-Brown: Right, I would like to make another comment, while these are being distributed. As you know, the assigned assessments that the Town is undertaking at this point, pretty much completed, are fixed for ten years.

Bill Manning: I didn't know that, but tell me what I'm missing.
C Martin-Brown: That's a significant piece of information. You don't need a civics lesson, but property tax has to do with enabling governance and they are paid to a governing entity and however this assessment process works out, the Charter has stipulated that these assigned assessment values will be fixed for ten years, unless the Charter is changed.
Bill Manning: Unless you decide to reassess, sure.
C Martin-Brown: No, it is prescribed in the Charter for ten years.
Bill Manning: If your point is that the consequences of this decision will have affect year after year…
C Martin-Brown: A decade; it will applied for a decade.
Bill Manning: Yes Ma'am.
C Martin-Brown: I just wanted to make sure that we all understood that.
Bill Manning: But I assume we agree that there's only one question here tonight; which is what is the fair market value of these properties on July 1, 2009?
C Martin-Brown: In your definition? In other words, the town's assessment process as you just pointed out early on was 2007; and what you're looking at is the July 1, 2009.
Bill Manning: That's your assessment date. Your Counsel will advise you so there will be agreement on this point, that the only question here tonight is what's the fair market value of these four pieces of property as of July 1, 2009; the consequences that the assessment decision will have for one year, four years or ten years has nothing to do with what the assessment should be.
C Martin-Brown: But it doesn't mitigate against the fact that the town's assessment started in 2007.
Bill Manning: Your process leading to your reassessment; we understand that.
C Martin-Brown: Yes, thank you.
Bill Manning: We know that this doesn't happen overnight.
C Martin-Brown: Right.
Bill Manning: And I will just get to what isn't maybe the bottom line, but it is a very important principle; maybe the bottom line tonight. I don't think that this disagreement would be taking place at all if the period of time during which your appraisers did all their work; reassessing a town is not a small job. It requires a lot of work.
C Martin-Brown: Huge.
Bill Manning: And it can't be done overnight, so you have to start early. If this had been a normal time, when you had the kind of normal fluctuations year to year in value, I don't think we'd be here tonight. The biggest thing that divides us tonight is for reasons that are certainly not the town's fault; it happened to start the process in 2007, as you said; ultimately selected a valuation date of July 1, 2009 and in that period, during which your experts were doing their work; and it took a long time; the world changed.
C Martin-Brown: Right.
Harold Carmine: And again I agree.

Bill Manning: In a way that we had never seen; I'm 62, I've never seen this before; and so if that hadn't happened; we probably wouldn't have much of a difference. But the whole point here is, where you have data that reports to you in 2007 or 2008 about a valuation date that won't occur until a year later; and if the market is changing as quickly as it did; and conditions that we've never seen before; you have to take that into account and we don't think that that happened. We understand why, but it didn't happen and the only question here is fair market value as of July 1, 2009; not 2008 and not 2007; so we are certainly not here claiming that the town is being unfair by design; or anything like that and we understand why you wanted to reassess; it made perfect sense and in any event that's a decision for a legislative body like you; that's not a beef we have tonight. You happen to pick a period of time during which there was more change in the real estate market then any of us have ever seen in our lives; and that's why we have a dispute.
Harold Carmine: I would just like to include that I applaud your efforts, because a lot of towns have just sat and let it go and raise the tax rate; you did the right thing; I applaud your efforts. It's not easy to do what you guys did. I've been in this situation before and your whole premise was to equalize property values and I applaud you for that. I do, we're not here saying you screwed it all up. Property Tax Associates for what they had to do, it was insurmountable; it was just the market timing and the valuation date is July 1, 2009; that's the bottom line; is that a fair value as of that time? But I applaud the town for taking the fortitude to do it.
Seth Thompson: Just to chime in, I think that's a fair statement of the issue presented and it's not a critique or a criticism of other people's work; certainly things take time. The problem was that the property's that you were working with in the beginning, by the time you got done with the entire project everything needed to be reviewed. That's what were here to do.
Harold Carmine: It was a lot easier to do what I did, then what they did, I can tell you that.
Bill Manning: Harold comes from the other side, he spent 20 years doing what you guys do, so he can't resist. That concludes our presentation. I understand that we're going to hear from your consultant and that by prior agreement, if there are points to be made after your assessor's testimony, we will have a brief opportunity to do that and then we all will have the question.
Seth Thompson: This is a fairly nice segue, not as nice as some of the ones prior, but using the sale, this is back on the original property, using the sale from 2010, do you think that causes any problem; because that's seemingly 10 months down the road; instead of using 10 months prior; we're 10 months beyond.
Harold Carmine: Actually, I think when the contract, it come out about 8 months, 9 months, something like that; I'm not sure; but no, that's clearly, I feel under these market conditions indicative of what that property is worth as of that date.
Seth Thompson: And in terms of any other sales, were there any forced sales, would that matter to you? For instance, a foreclosure and they do a short sale?

Harold Carmine: I'm not aware of any foreclosures that took place during that time period, within the town. The data that I relied on strictly came from the Multi-List and the tax records from the Multi-List.
Mayor Newlands: Now are you also suggesting that the land value of the homes that are sold is too high, as well?
Harold Carmine: I didn't analyze that.
Mayor Newlands: If they're all the same; if they're all $80,000, wouldn't that be the same case?
Harold Carmine: Yes.
Seth Thompson: I think you said in terms of listing prices, I think there was a part of your presentation that you said that maybe appropriate. Did any of those actual listing prices come down?
Harold Carmine: Yes.
Seth Thompson: Have you seen reductions in actual prices? Do you have any idea of the percentage?
Harold Carmine: No, not really; I would be guessing.
Seth Thompson: I don't know if my questions prompted any others. Thank you.
Mayor Newlands: Mr. Hickey.
Dave Hickey: Yes, Sir, thank you. I would like to commend Harold; he's a good friend and I think he's done a good job and a lot of dates and facts and figures have been thrown around. Obviously, an assessment as they have discussed an assessment project takes a period of time. One point that I would like to dispute a little bit is that we did not operate in a vacuum; we recognized that the property values were changing over time and we tried our darndest to keep up with that fact during the entire course of the project. Of course, most of the lion's share of the work was done in the fall of 2008; finished up with our hearings in Spring of 2009; so for the most part the assessment was based upon sales that occurred primarily in the 2007-2008 timeframe; but that said, we continued to monitor the sales activity that we could get our hands on and modified our assessments downward to adjust the prices to accommodate the later timeframe. In fact, I think when we finished our assessment sales price ratio, based on the sales that occurred in early 2009, we were down to about 92%. In other words, our assessments were representing about 92% of what those properties were being bought and sold for here in town. Now, the issue with the Chestnut Properties or Cannery Village properties seems to always be revolved back down to the $80,000 values we have on the lots in Cannery Village. Let me discuss the Preserve on the Broadkill first, before we go there. When we did the Preserve on the Broadkill, the only sales we had ranged, and I think there were 2 sales for $260,000's; $267,500 in 2007; there was 1 for $135,000 and the latest sale we had was in May of 2008 for $143,500 and we recognized that there's differences in a lot of those lots out there, but part of the problem or part of the obligation we have as assessors; and I think Harold would agree with us on this; is we have to maintain uniformity; and that's why we came down to the $140,000 price range. Even as late as January of this year, Remax Realty

had lots at the Preserves listed for $189,000 each; and they were giving a 25% discount on the first 5 lots sold, which would bring those properties down to $141,750; and in the fall of 2009 they were listing those same lots for $162,500; so Remax in going from the fall of 2009 to January of 2010 price range, had raised their asking price from $162,500 to $189,000. Now I agree that listings are not the be all and end all of market value evidence; sales are obviously the most important indicator of value; however, a listing will set what's called the upper limit of value. It's representative of what a willing a seller is willing to divest his property for. It doesn't necessarily mean there's going to be a willing buyer that is going to be willing to pay that price. In a jurisdiction such as this, an older, pretty much fully built out town, the only way we can come up with land value, is to look at for the most part sales of known properties; properties we can find listings of vacant lots; if we can find any sales of vacant lots, that's wonderful; we take all that stuff into consideration; but that said, given the sales that occurred in 2007, 2008 even though they were up in the $260,000 range, for us to come down to the $140,000 range, given the known listing values and the latest market evidence we had, we thought that was a fair indication of what those lot values were worth in the Preserve; and we had some sales of lots in Heritage Creek at the $125,000 range and so on and so forth; so we felt like $140,000 was a fair price. The Cannery Village $80,000 lots, obviously Cannery Village had a lot of townhouses or you call them the attached homes and single family, but they are all jammed in on rather small lots. For the most part, lot values here in town $80,000 was a fair to midland or the low end lot value; there were properties listed outside of town with no utilities available from $90,000; like we said Heritage Creek had lots that actually sold for $125,000; we had some lot sales in some of the other areas of town, looking at asking prices and so on and so forth; we felt that $80,000 was a fair price for the land component of those prices. Most of those properties, I think I made the point in Page 8 that we looked at the average price of the sales that report that I provided that you all talked about earlier; that the average price for the single family detached was $283,500 and that the attached was $276,000; well, you know, we might as well round both of them to $280,000; so it really didn't matter when you looked at the market perspective whether it was a single family attached or a single family detached; in essence Ryan Homes was getting the same amount of money. Our assessments are all under those 2008, 2009 values; so we've tried to take the changing market conditions into consideration. Again the $80,000 is a fair, uniform lot value that we used throughout the town. When we met with Mr. Carmine in December, as I noted, he provided us with some sales information of lots that were sold in bulk to Ryan Homes for $45,000 for the attached lots and $53,500 for the detached lots. In looking at the data that he provided for us it seemed like from my perspective those sales were primarily I call them "in house deals"; he called them "builder tie ins". Whether John Q. Citizen can go out there and buy one lot, in and of itself, I don't think you can do that; from the way it was described to me. In this case, you would purchase a home from Ryan Homes; Ryan Homes would then go to Chestnut Properties and purchase the lot and as they said; and I've seen in other areas in Ocean View and Seaford and some of the other areas, Ryan Homes would come into their developments and they don't even purchase the lots until they've actually sold the unit that they are going to construct on site. So, there seems to be a very symbiotic relationship between the seller of the lot and the developer and that there's a disconnect between John Q. Citizen being able to come in there and just buy a lot on his own and build whatever house he wanted with his own contractor. The only way that you're going to buy a house in Cannery Village is to have Ryan Homes build it and you're only going to buy it from Ryan Homes. So I didn't feel like those sales, even though they were "group sales" to a developer, were really indicative of the market value. That said, from our perspective, we looked at the actual sales of the units; we lowered our assessments down to reflect the declining market so that our assessments of the completed house and lot are certainly less than the 2008 and early 2009. Now I will admit from the market perspective that we've continued to monitor, that prices continue to fall; I mean, that's the crystal ball that Mr. Carmine has the ability to look into, that I did not have, back when we were doing this in the late fall of 2008, early 2009; as Mr. Manning pointed out so eloquently, nobody would have foreseen this dramatic decline in the level of assessments or property values, not only in Milton, DE, but throughout the entire region and throughout the entire country. Property values are continuing to decline; but our contractual responsibility was to determine the value of the properties here in Milton as close to fair market value as we could, given the evidence that we had at our disposal, and to apply those assessments as uniformly as we could. Could we say that without compelling market evidence, if we were to lower the assessed value of the vacant lots in Cannery Village, say we lowered them to Mr. Carmine's $60,000 figure, lowering them from $80,000; we would then have to turn around and raise the assessment of the dwelling portions of all the houses there in Cannery Village by a comparable amount; because our bottom line value of the improved house and lot is less than what those properties are being bought and sold for. So what we're really talking about a difference in proportionality here. From the landowners perspective, though; all he has is his vacant lots that he's selling; so he has to pay the taxes on those vacant lots and I understand that perfectly; but if these lots were a set aside area of the development that was grown up with weeds and was not presently developed, you would say yeah there's compelling evidence that showed differential values there. But these lots are all intermingled amongst all the other improved lots; there's no difference between one of their lots and the next door property that's got a house on it. To be fair to the citizens of Milton that own those properties that are developed; that they bought and purchased; that we put $80,000 on it; we have to be fair and consistent with the $80,000 here. With regards to the $75,000 an acre, that seems to be the main point of contention whether we're talking about your Phase 3 or Phase 4; primarily we're talking about the undeveloped acreage, we struggled with this entire scenario. When we met with Mr. Carmine, he talked about a price development and so on and so forth that compelled us to understand well yeah, maybe, we should lower the price from $100,000 an acre down to $75,000 an acre; taking into consideration the actual improvement cost of putting infrastructure in. He brought to my attention that it was in excess of what I thought they were; but, we also at the same time tried to find that you can't ride too far out of town here without seeing signs that say so many acres for sale, development potential, residential, so on and so forth. One of the things we do was obviously let's find out what these properties are being listed for sale for. And, again, that's to give us what we would consider the upper limit of value. Those are particular pieces of property here that are listed today; I printed this off from Remax Real Estate on April 28th of this year. It's listed for $2,950,000; it contains 27.6 acres; or as Mr. Manning said 27.56 acres; it's part of the property of Cannery Village; and they're asking $107,000 an acre for property that we've assessed for $75,000 an acre. This other property Mr. Carmine's talking about is $3.9 million that works out to $59,000 an acre; but I don't think it has any of the other infrastructure. It's my understanding that is outside the town area; but that said, I think when I had my discussions with Mr. Carmine and we looked at it in terms of the value per acre of this property and we said if the basic lot here in Milton is worth approximately $80,000 and you can get between 4 and 5, we were estimating, five lots per acre, using a 20% value; in other words we said the value of the raw, undeveloped lot would be 20% of the full value; this is in anticipation of Mr. Carmine's discounting method. In other words, I'm going to say the current undeveloped value is only 20% or $16,000 per lot; 5 lots for that $16,000 would work out to $80,000 per acre; this property is a 27.56 acre track; their listing they're saying 138 acres for $2.95 million; that's $21,376 per lot; compared to ours at $16,000 per lot. So, I think we've tried to be fair and consistent at the $75,000 assessment level taking into consideration the information that Mr. Carmine brought to our attention; the known listings we had and some other information that we got from the Town staff regarding some development issues around town that Robin Davis gave us some background information about some of the other aspects of annexations and that sort of thing here in town. That's how we arrived at the $75,000. Again, in conclusion, the values of the Preserve on the Broadkill we made our best guess based on the known sales and we discounted the heck out of them down to the $140,000 level; that appeared in line not only with other similar lot sales; that we were aware of, like in Heritage Creek; but also it was in line with the known listings of what those properties were at; what they were asking for in the spring/summer of 2009; plus, which was further confirmed when we double checked it in January of this year. That's pretty much our take on it.

Bill Manning: I'm not going to take very much time, but I just want to make sure I understand what you said and I want to see if we can reach agreement on one or two things. For the Preserve on the Broadkill, and I'm reading from your letter, you had lot sales ranging from $135,000 to $260,000 from 2007-2008, correct?

Dave Hickey: Yes.
Bill Manning: Yes and I think you just said and I then you just countered the heck out of him, correct?
Dave Hickey: Right.
Bill Manning: And isn't the difference between our position and yours just how much you should have discounted those lots? Isn't that where we differ?
Dave Hickey: Well, yeah, but at the same time, the most recent market evidence that we had was $143,500 with that May of 2008 sale. So there's a known data point; but they were asking $162,500, as I point out Mr. Carmine reported that some lots in that sub-division were being marketed in the $190,000 price range, which is in conformance with the $189,000 information we got from Remax and that was based on our meeting with Mr. Carmine in December of last year. But basically, when you looked at those listings they all said we would give you a 25% discount for the first five lots sold; but even if you take that off of that $190,000/$189,000 price range and take 25% off; you're still down in that $140,000 price range.
Bill Manning: Did people rush to buy lots at those prices?
Dave Hickey: I'm not saying that they did or they did not.
Bill Manning: In fact, you agree that they didn't; those sales didn't occur. Correct?
Dave Hickey: That's correct.
Bill Manning: Let me just do this. Do we agree that the prices were higher in 2007 than they were in 2008?
Dave Hickey: Absolutely.
Bill Manning: Okay.
Dave Hickey: We adjusted our assessments down to reflect that fact.
Bill Manning: That's what I want to talk to you about. By how much down did you make the adjustment?
Dave Hickey: Well, I don't remember the exact percentage and obviously we felt that sales that occurred in 2007 weren't as high as what we were finding in 2008; and what sales we had in the early part of 2009; so but the 2009 point is the base that we came down to. In other words, I don't know the rough numbers; but let's say for example, they were 20% higher in 2007 and 10% higher in 2008 then they were in 2009; I'm just using those as examples; then we would time adjust the sale that occurred in 2007 down 20% and if it had occurred in 2008 it would be 10%. Those aren't the exact numbers; I'm just saying that we would put more downward interest on the price on a property that sold in 2007 then one that sold in 2008.
Bill Manning: If those aren't the exact numbers, where are they?
Dave Hickey: Pardon.
Bill Manning: Where are the exact numbers? I understand your methodology and you've used 10% and 20% tonight for purposes of illustration. Where are your actual calculations; where are the sales prices you started with and how can I see how much you discounted those prices to get to July 1, 2009?
Dave Hickey: I would have to run you a list, but you could see when you looked at the lull of the properties that sold in 2009, you would have to look at

our final value in 2009; you know the reported value July 1, 2009. And you would look at a sale, for example in 2007; I guarantee you, our price is a lot less than it was in 2007.

Bill Manning: And you and I agree on that. So we can finish this conversation real quick.

Dave Hickey: I can give you that list.

Bill Manning: Let me ask you my question and then you can give me the answer, okay?

Dave Hickey: Okay.

Bill Manning: We can finish this conversation quickly if you can show me by how much you discounted that 2007 sale to get to 2009; are you able to do that tonight?

Dave Hickey: Not tonight, but I can do that for you.

Bill Manning: And you earlier were here when you heard Harold testify about… In fact, he put a slide up on the screen that showed the trend and average lot prices for the entire area. Do you have any reason to disagree with the data he showed?

Dave Hickey: No, he's showing the trend for a period of time and then he tried to… I don't deny that property values are less.

Bill Manning: And the question is how much?

Dave Hickey: Yes, that's the…

Bill Manning: And this is what I'm asking you. I mean, Harold's data for the entire MLS area showed a fall off in lot prices from 2007 to 2009 of 58.8%; do you doubt that number?

Dave Hickey: Of the entire Sussex County area?

Bill Manning: No just this Broadkill Hundred MLS data. Do you disagree with Harold on that?

Dave Hickey: No.

Bill Manning: Okay, if Harold is correct about that, then give me the 2007 sale that you're talking about and let's see what happens if we discount it by 58%.

Dave Hickey: You're talking about a 58% decline in land value?

Bill Manning: No lot value, yeah.

Dave Hickey: Yeah, lot value.

Bill Manning: I just asked you if you disagreed with that number and you said no.

C Martin-Brown: Wait.

Dave Hickey: No I'm looking at the trend downward. You know and the bottom line value; you know the house and you know.

C Duby: Excuse me, can I ask a question here? I'm not sure it seems fair to me, to take the average lot sale price for the entire Broadkill Hundred, regardless of size, type, whatever and expect that they would apply to a lot in one development in Milton, DE that the percentage should be 58% because the average lot price is 58%.

Bill Manning: Maybe not. If they have better data they should show you and they should show me; and then we can go with that data.

C Duby: So I don't think we need to go back and forth about this, because there are different ways of looking at it and I would happily look at their data, after you've given us yours.
Bill Manning: All I'm doing is asking if this is an inaccurate; if this area is too big and if the suggestion is that this fall off in lot sales 58% for some reason didn't occur in Milton and it occurred in this entire area, but for some reason Milton is different, that might be true; where's the data that shows that? There's nothing in the record that shows that.
C Duby: I think we can look at… What was the price in 2007 it was $260,000 something, wasn't it of a sale that happened of a lot in Preserve on the Broadkill in 2007?
Dave Hickey: In April of 2007 there was one that sold for $260,000; in August of 2007 one sold for $267,500.
C Duby: What would your discount, or however you term it, to go from $267,000 to $140,000; that's a significant drop.
Dave Hickey: Almost a 50% drop.
C Duby: So it's not…
Bill Manning: All I'm asking is where's the data? What was his discount and where's the data that shows it?
C Martin-Brown: The data is…
Bill Manning: Let me finish.
C Martin-Brown: No, I'm not going to let you finish. I'm going to finish.
Bill Manning: Okay.
C Martin-Brown: The data is what she just got the figures from the 2007 sale to the $140,000. Now the reason I don't want to have you continue is because no one is disputing the methodology that says things are less expensive now; but when Mr. Carmine met with the contractors and made his case; was that the point when you felt there was a fair case being made and revalued it down to $140,000? Was that in response to Mr. Carmine's visit, or prior to that?
Dave Hickey: We didn't change our assessment from that.
C Duby: $140,000 was the original.
C Martin-Brown: So that was the original. That's why I didn't want you to continue the question. I needed to get a context for that.
Seth Thompson: I want to set some ground rules, just in the event that people are confused. Obviously, the appellant has as much time as he needs. You were just referring to that question; you wanted to hear that specific question context.
C Martin-Brown: Right, I needed to understand it; to hear what he was going to say.
Bill Manning: I do not take it that she was shutting me off. And she wasn't.
Seth Thompson: Okay, great.
Bill Manning: I understand and we'll finish this. We could go on all night. Here's the point and I hope this doesn't come up again; in later proceedings; but you never know. We have given you what we think is a record demonstrating the extent to which lot prices fell in this period of time. I don't see anything in the record… Your expert has said I'm not accepting that.

You say it's 58%; I'm not going to buy that. I apply something else. There's nothing in the record showing us exactly what it was or where it came from. Now, I will finish with that point because I would like to think that I have persuaded you, but I doubt that I have and there's no point in going any later tonight on that. I did want to give though Harold the opportunity to sum up, based on what he has heard and then you all can vote, if that's acceptable.
Mayor Newlands: No, we're not voting tonight.
Bill Manning: Okay, well, whenever you do.
Mayor Newlands: We have to wait for an analysis to come back from Mr. Hickey. I don't think there was a full analysis done on this yet; so I think he's…
Bill Manning: So the record will stay open, I take it.
Seth Thompson: So you're leaving the record open as long as…
Bill Manning: Then we'll have to have another hearing.
Seth Thompson: That's right; they're going to need the opportunity to respond.
Mayor Newlands: Well, when we did it back in December/January, the applicant came in, presented their case; then Property Tax Associates went back and they did their analysis and came back with their opinion on that case. You're saying no.
Bill Manning: That's how you did it.
Mayor Newlands: That's how we did it. Now this was done a little differently.
Seth Thompson: We're starting back at square one.
Mayor Newlands: Right, but that's the process we used back in December/ January.
Bill Manning: I think I don't want to put words in…
Mayor Newlands: Are you saying I'm making this go back to square one? Or that we just went back to square one?
Bill Manning: Here's the issue you just identified and you can listen to Seth about it. You can't rely on anything that hasn't been part of this hearing; and so, if there's information that comes in after this hearing; we'll have to have another hearing; because we're entitled to see it and analyze it.
Mayor Newlands: That's what we did in January. In January the applicant came back in and Property Tax Associates presented the data back to them and then it was voted on. So it was a two-step process. You're objecting to it, but that's how we did it. I was sitting where you were in January.
Bill Manning: You'll have to take your counsel from Seth. I'll just put it this way; we'll have a standing objection to the extent that you are basing a decision on stuff that we haven't seen; I can't state it any more clearly than that.
Seth Thompson: And that objection is noted. I guess I want to make sure that I understand…
Mayor Newlands: I'm not saying that we would vote without having the data being presented back to us; it will be a public meeting.

Bill Manning: It's not just public. I need to see it; if this is the evidence on which the assessment is being based; we should have had it tonight; we haven't seen anything other than the letter that we've referred to. If there is going to be a new letter, and I hate to say this, but we're entitled to see that letter and to analyze it and to come before you with a hearing.
Seth Thompson: Let's just make sure that we're not dealing with a hypothetical. Was Property Tax Associates intending to produce anything beyond a letter that previously was presented?
Dave Hickey: He asked for some additional information which I'm willing to provide to him, but I don't think it's going to change in any factual way my original analysis or conclusion. My feeling is that he wants to see the sales that and the assessments here in town; and I would show him the sales, I would be able to say, well here are the sales that occurred in 2007 at this level; and here's our assessment; here's 2008 sales and here's our assessment; here's 2009 sales and here's our assessment; and he can look at that raw data and draw his own conclusions. But, again, when we go out Cannery Village and I go back to the $80,000 lots, our main focus was the completed properties that were there; and, if you decide to change the uniform $80,000 land value, which is as good for the improved lots as the unimproved, to say $60,000 as Mr. Carmine said, then we would have to go back lower all those land values to $60,000 and any improved lot we would have to increase the improvement value by $20,000. So there's no net change to the improved land owner. Because our assessments are all less than what Ryan Homes are selling those properties for.
Seth Thompson: I understand that point. Mine was more of a procedural issue. When you're using the pronoun here "he", you were just referring to Mr. Manning's question to you in terms of you would like to see the data.
Dave Hickey: Well if he would like to see the data, I would be happy to provide it to him.
Seth Thompson: But you weren't intending; nobody on the Council had asked you to provide anything other than what you had previously provided, which has already been given to the appellate.
Dave Hickey: That's what I understood.
Bill Manning: Then my answer is easy. Save it, because I'm not the one that needs to be persuaded. These folks are the ones that need to be persuaded and they can only make their decision based on what's in the record in front of them tonight. And so I wouldn't put you… The drill that you are describing is unimportant; then maybe you and I would agree or disagree that that's not what's important here.
C Martin-Brown: But you're saying what you have presented tonight, right?
C Duby: The total record of the hearing tonight.
C Martin-Brown: No, no, no I understand that. But what I am saying, is when we had our earlier hearings and we were being addressed by other property owners; and it was appealed and we already his report; all of that has standing and is not to be reopened or questioned because it was all in that initial report that we all received and studied.

Bill Manning: I'll put it another way. It is to be reopened, because that's what we're here doing tonight; but yes, what that letter, which is all we have that tells us how these valuations were reached; that's in the record; I'm not objecting to that.
C Martin-Brown: Right.
Bill Manning: And you have nothing else, other than that.
C Martin-Brown: From you.
Vice Mayor Betts: From him.
Dave Hickey: The official property roll was presented at the time and also the list of all the sales they were all a part of the record that was delivered at the conclusion of the job; which is part of the public record; which you all were more than happy to look at.
Bill Manning: It's either in the record at this hearing or it's not in the record at all.
C Duby: So are you saying that we can not consider the original assessment report that was given to the Town? That's the whole basis of your appeal.
Bill Manning: Yes Ma'am. I think this is it.
C Martin-Brown: No.
C Duby: No. He's talking about what he presented to us after he did his job and said I've reassessed the properties, here Town Council, here's my report.
Bill Manning: I've been asking tonight for that very information and it's not here in the room tonight. This is the hearing at which you all are supposed to hear all the facts; all the facts that go to the issue of what this property is worth and then make a decision whenever it suits you; whenever you're ready to make that decision.
C Duby: So Seth, we cannot consider the original submission.
C Martin-Brown: That's not…
Seth Thompson: In terms of due process, obviously the appellant needs to have an opportunity to respond. Now if they've been provided that information at some point and it was made a part of the record earlier, then that's one thing. But if they haven't been presented with that information, then they haven't been given the opportunity to respond. So that would be the concern.
C Martin-Brown: But the report that these gentlemen did to fulfill their contractual obligation to the Town, which we all received, is part of our record for our earlier hearings. The difference is these gentlemen did not present their case at that time, so we have not lost what's part of the record which was their contractual work and it was part of the consideration of other applicants in the appeal process.
Mayor Newlands: Are you talking about the original assessment that they did?
Vice Mayor Betts: Excuse me, I think what they're asking, this is a new hearing for them, because we granted it to them. They want to see what they were proposing; they did not see that at our last hearing; is that my understanding? Now you want to see the evidence where he got it from; and the assessments.

Bill Manning: It is the Town's responsibility tonight to establish the basis for its appraisal; it is our responsibility tonight to show you the basis for our evaluation. We've done that. You have those reports in front of you; you've heard testimony about the facts in each of those appraisals and I understand that. Well, what we have in the record tonight is this letter, which I cited before, this January 15th letter; that's the record, that and your expert's testimony; that's the record in front of you tonight; and that's the only record you have tonight.
Mayor Newlands: And you asked for more supporting data.
Vice Mayor Betts: Yes.
Bill Manning: I'll put it in a way that sounds harsh, but it will make the point. I don't care, it's you all who are the important audience and you all need to make a decision, but you can only make a decision based on the record in front of you and the only record in front of you, that you have, regarding the Town's assessment is this letter; because I put it in the record and the testimony that you've heard.
Mayor Newlands: Let me ask you some questions. Would you be…
Dave Hickey: That's not necessarily; that's not exactly true. Prior to the original hearing that we had, there was a very detailed letter submitted to Council outlining in great detail the objections of Mr. Dyer the owner (of Cannery Village). He had several contacts with the Town; he wrote a very detailed letter regarding his objections to the assessment. It was on the basis of that objection that I met with Mr. Carmine and that produced this report. So what you're saying is the only evidence is not just my letter; you need to give the original data from Mr. Dyer.
Bill Manning: I'll just say what I think and then you can listen to your lawyer; and maybe we won't settle this tonight. All that produced; that didn't produce any record, it produced a lawsuit. That lawsuit got settled when we decided to have a new hearing. You all have a decision to make; what's the fair market value of this property on July 1, 2009; what other lots are appraised at is not a question for tonight; I don't want to be callous and say I don't care, but the law doesn't care. My point is we're only dealing with the pieces of ground that we're talking about tonight; the four pieces of ground that you've heard Mr. Carmine testify about. And so, remember I said at the beginning there's been lawsuits filed and I'm not going to talk about any of that, because it doesn't matter; that was my point; none of that matters and it's not in the record. The record was produced here tonight.
C Abraham: You're right.
Bill Manning: And based on this record and only what you've heard tonight, it's now your opportunity and Harold wants to make a couple of final points in rebuttal and I think we've agreed that I'll just shut up. When Harold's done you will have the entire record in front of you and you can make your decision when you think it's appropriate; I understand you're not going to do it tonight; I get that. But the only basis for the decision can be information furnished to you tonight. Harold, a little rebuttal.
Mayor Newlands: Can I have one second? I have one question, maybe two.

Harold Carmine: This is the January 15th, 2010 letter to Mr. Dickerson from Property Tax Associates, which Mr. Hickey has referred to as his report.
C Duby: And this is what? Mr. Manning said it was just put in the record.
Harold Carmine: It's based on what request, though? I'm just trying to get clarification; I'm not looking for an argument.
Dave Hickey: The process was the Town had appeals that were heard before Council and I forget the exact date.
Harold Carmine: December.
Dave Hickey: In December. Prior to that time, Mr. Dyer had written a letter saying that he was objecting; he asked that Mr. Carmine represent him. Mr. Riley, my associate, Curt Riley and myself told Mr. Dickerson because of the complexities here, we felt like it was important that we go to Mr. Carmine's office and sit down with him and go over, in detail, the complexities of this assessment. Having done that, plus listened to the objection of all the other applicants that were listed in there; we investigated our sales and our market evidence and our assessments and we rendered conclusions and that's what generated the report.
Mayor Newlands: Hang on a second. You actually did an assessment based on meetings you had, that we didn't hear?
Dave Hickey: Correct.
Mayor Newlands: I have a problem with that. I have a real problem with that. So we didn't get to hear the full story. You're sitting here saying this is the record, but we didn't get to hear what was said at those meetings.
Bill Manning: I wasn't the one to determine what you got to hear.
Mayor Newlands: I know, I know, but I'm just saying that this…
Bill Manning: There's a lot of work that both these gentlemen have done before tonight. That's not the problem. They've done their jobs. The issue here is what do you have in front of you tonight to make this decision?
C Abraham: The appeals.
Bill Manning: We've given you complete appraisal reports; you have in terms of documents, you have the letter that you had on January 15th and in addition to that you have the testimony of Harold Carmine; and you have the testimony of your expert. That's it; that's all you have. All the work that went before, if it was going to be in the record, it should have been put in the record; it's not.
C Abraham: He's right.
C Duby: Here's the point that I don't understand.
Bill Manning: Yes Ma'am.
C Duby: What your client and you are appealing is the original assessment made by them of these lots, is that correct?
Bill Manning: Yes Ma'am.
C Duby: And yet you're telling us that we cannot consider that original assessment.
Bill Manning: The number, oh yes, I'm sorry.
C Duby: Of course, I can consider the numbers.
Bill Manning: The numbers are in the record.

C Duby: But they presented to us an assessment; we hired them to do an assessment; they did an assessment; they presented it to us; and now you've appealed a portion of that.
Bill Manning: Correct.
C Duby: But you're telling me that we can not consider what the original assessment was; only what you've said to appeal it; and what they've said in response to that appeal.
Bill Manning: You know what it was; there's a number; they've given you a number; that's part of the record; and the question is has it been supported? What do you have to support that number; you have this, that's it.
C Duby: And what they gave us to support it when they presented it.
Bill Manning: That's where we disagree.
C Abraham: No, because I'm thinking on an appeal, there was a decision; end of story; you appealed, new case; new entry of information which wasn't offered tonight.
Bill Manning: And that's doubly true given the way this hearing came about; it came about as a result of a lawsuit which we settled in return for a new hearing.
C Abraham: Right.
Vice Mayor Betts: And there should be a new hearing for both sides.
Bill Manning: Tonight was the night.
Seth Thompson: I suppose again, we might be delving into something that's purely hypothetical if Mr. Hickey responds in saying this is more particular in its information? Were you asked to go back and check; double-check your work and, I guess I just don't want to belabor a point that may or may not really amount to anything, other than just a theoretical debate. The information from your initial assessment; that I understand C Duby is discussing, is that contained in this report?
Dave Hickey: No, it was the basis for that report. I mean we went back and reviewed all the sales; we went back and reviewed the assessments; we went back and reviewed all that factual information; that's the only way I've ever known to do it for 30 years.
Seth Thompson: Is it fair to say that this report, dealing with these specific items, is more specific then that prior report?
Dave Hickey: Well the prior one, you say the prior report was just the initial assessment.
Mayor Newlands: The actual assessment.
Seth Thompson: Right, so I guess I just want to just make clear that the Council isn't relying on information that's not contained in the report; I suppose we can do bend diagrams and what not; that the information from the initial assessment is all included in this actual report, the January 15, 2010 letter, is that correct?
Dave Hickey: Pardon me, in essence, when I spoke to Mr. Carmine, you know the numbers on the table for Cannery Village were the $45,000 and $53,000 and he's already raised them up from what he presented tonight to like $60,000; and I wasn't even aware of any of that information. I thought this

was going to be more or less that he was going to have the opportunity to present to you all tonight what he was precluded from presenting at that meeting we had earlier.
Seth Thompson: You're absolutely correct. I guess I just want my answer to then be; I would like my question answered in terms of whether I needed to be clear as to whether or not the Council is relying on information or tends to rely on information outside of this document.
Dave Hickey: All I can say is that the original assessment was done; appeals were made to the original assessment; I listened to the appellants; I took their concerns into consideration; I gave my best judgment on what I thought should be done; then Council rendered a decision in each one of those cases, based upon the merits of what the landowner had presented and based on what I said; from what I heard tonight, there's nothing that materially changes my conclusions from what Mr. Carmine has presented. I mean he's made a wonderful presentation as to the fact that the property values in Sussex County, the Milton area is less today then it was in 2007. The bottom line is, is we had to in doing our job; we had a date certain that we had to establish; now the date was set as July 1, 2009; but in reality it was the date the work was being done in 2008 and in early 2009. In fact, the last sales that we actually really, really had were late 2008 sales. I mean we did the best job we could, hitting a moving target. Mr. Carmine's been eloquent in describing the decline; he's presented very solid market evidence, you know, and that property values are less today then they were in 2007. I guess if we were doing this job as of January 1, 2007, the values would have been a whole lot higher than they are now.
Seth Thompson: Mr. Hickey, I understand you are in a difficult position in a volatile market. Given the benefit of retrospect, given the ability to Monday morning quarterback, so to speak; would you change anything?
Dave Hickey: No.
Seth Thompson: Okay. Do you base that opinion on anything other than what you put in this report?
Dave Hickey: No, well.
Bill Manning: Sure, he has to.
C Martin-Brown: No, wait.
Dave Hickey: When I was informed that we were going to have this I went back and read that over; I had my Chief Assessor, Mr. Larson; who is much more familiar; unfortunately he couldn't be here because of some health reasons; we went over in great detail the evidence that we had to support our initial values; because our date of valuation is July 1, 2009; you know, what's happened since then, we can't consider, technically. And, you know, we followed that up by he's able to get on the computer; he can't go out in the field because of some health issues; but he got on the computer and he was checking sales and listings and whatever; and they all pretty much supported my initial conclusions; and that's why we said what I said in that January 15th letter; it's as good today as it was then.
Mayor Newlands: So nothing said tonight changes your report.

Dave Hickey: No, Sir.
C Martin-Brown: Looking at the legal sequence, when they were contracted and they gave the Town all the assessments and then the opportunity for appeal according to the Charter was presented, and the Council was converted to hear the appeals; and people came before the Council based on that original report; and made their cases and in each case the Council sitting in an appeals process; considered what was presented to us; and in that context the Mayor, then Mayor, asked these gentlemen to go back and reexamine each of the cases that had been appealed to see whether there was any reason to change the data; I think the sequence is wrong. First they made the appeal and before we heard it, they were instructed to go back and investigate and revisit what they had done; taking into consideration the appeals that they received; then we sat in a hearing process; and the people made their case; and then we voted on each case, based on the update that the former Mayor had instructed the contractor to do, once they received the request to make an appeal. In that dynamic, he took the letters that were prepared; were based on the reexaminations to make sure that we were being fair before the case came to us; it was being appealed; so it was the genesis of the January letter was instructions from the Mayor and Council to go take a good look at this before we heard the appeals and before we voted. Mr. Carmine met unilaterally and my understanding is that that letter was after your meeting with Mr. Carmine or before?
Dave Hickey: This letter? It's after.
C Martin-Brown: It was after.
Dave Hickey: My understanding was that you all had one set of hearings in December.
C Martin-Brown: And then you basically had a meeting that we weren't privy to, but the reaction to that meeting was the letter that you're pointing out tonight, as part of the record, Sir?
Harold Carmine: No, that's not correct. I obtained this letter… This letter was presented at the appeal hearing.
C Duby: And this is the January 15th letter?
C Martin-Brown: Right.
Harold Carmine: Right. That suit was filed against the Town. I did not have an opportunity to see this letter until that hearing; we did not discuss this letter.
C Martin-Brown: Then you went to see him afterwards?
Dave Hickey: No.
Mayor Newlands: I think I'm okay with this. And let me just rephrase this; you had a meeting with Mr. Hickey, which was basically your hearing with Mr. Hickey, in private; and I'm not getting into any problem with that; and he produced the letter giving his analysis? Now you're giving the January 15th letter; and that's his analysis of what that meeting was about. Now you're presenting what you presented to him, to us?
Harold Carmine: Yeah.
Mayor Newlands: Okay.

Bill Manning: Well, you had it half right; that's how the letter from your expert, comes to be; your facts are entirely correct. And then we had a dust-up about the process and we settled it. I'll tell you what; let's just have a new hearing. So we have a new hearing; we bring an expert; fortunately my client paid money to get an appraisal done; you have the benefit of that. In other words, the values to which Mr. Carmine has testified are supported by hard data that everybody has in front of them right now. You had asked your expert; does that change your opinion? He said, no. We knew that going in. So what you have is an opinion and then the question is what supports it, here, tonight; in the record? You've got the conclusions to which he refers in this letter, because you've got the letter in front of you; and that's about it. You've heard conversation about a lot of other things that he thought about and people that he talked to, in thinking about tonight; good job; it's what he's supposed to do; but he didn't come into the courtroom or the hearing room; there's nothing here in front of you that shows; and I'll put it; I'll be quiet after this. One fact, we went to some trouble because the whole issue is we all know it fell; everybody agrees that property tumbled; it's the obvious; how much. At some expense my client hired an expert; to put in the record tonight here's how much it fell. Your expert concedes it fell; but says it didn't fall by that, because I don't agree with his value; but you haven't heard the basis for some other conclusion. If there's another discount number out there, let's hear it; let's see the basis for it; give it to us, so we can cross examine; that's not going to happen tonight.
C Martin-Brown: Is your target date the same as his? Your shut down date?
Bill Manning: Yes Ma'am.
C Martin-Brown: So you're working backwards with a different methodology then you feel he worked with.
Harold Carmine: Our valuation date is the exact same as your valuation date.
C Martin-Brown: So the difference is the methodology?
Bill Manning: Yeah, the real difference is you have sales that took place; he looked, as he should have at sales that took place in 2007 and 2008; no problem there. You've got to look at whatever there is; you can't make stuff up; he didn't. Then the question is how do you adjust it to get to July 1, 2009? I can prove myself wrong here; I'm tempted to say that's the whole difference here tonight. How much did it fall? Mr. Carmine has demonstrated how much it fell with actual market data. You don't have two things on the other side. Nobody has said no, he's wrong, here's how much it fell; and nobody has said, here's the data that supports that.
C Martin-Brown: But that was in the original report.
Bill Manning: Doesn't matter. Not here tonight. It has to be in the record tonight.
C Martin-Brown: This is an appeal process of the original findings.
Bill Manning: If you are going to rely on anything you have heard tonight, it needs to be in the record tonight.
C Duby: I'm not sure that it was in the original report. It sounds to me from Seth's question to Mr. Hickey, that everything that you believed was relevant

to how you reached your decision; you put in that January 15th letter, is that right? Yes. So there wasn't anything that you would say now was in that original report you gave to us, that you didn't include in this letter. Yes. So I think we have it.
Vice Mayor Betts: I was under the impression and I might be mixed up also; but I thought Mr. Hickey said there was things; some evidence that he had, that he didn't have tonight; so that's where I'm getting confused. You said a while ago to his question, that there was some things but you couldn't produce it tonight, is that right?
Dave Hickey: The original sales list and the property role that we had at the hearings were all provided to the Town last year and I assume they're still around here someplace.
Vice Mayor Betts: But I thought you told him, I might be mistaken, that you said that there was something you could get but you couldn't get it tonight.
Dave Hickey: He was asking for a specific mathematical computation; if I could provide that to him; which I can, but I wasn't aware that he wanted something like that. I mean if he wants to see them, I'm sure it's available here somewhere; the original sales list he could go and do that calculation himself; he can take the sales and the underlying assessments and he can figure out himself; I was just offering to be able to do that quickly; but as far as the public record goes, all the sales that were used, all that information was provided and made available to the Town at the time that the reassessment was completed so that evidence was there moving towards an evidentiary look at all this stuff. That stuff was there and available for Mr. Manning to peruse anytime he wanted.
Vice Mayor Betts: Thank you.
Bill Manning: I didn't care about it. I don't want to peruse it. I just want the basis of your decision to be the stuff we heard tonight; because tonight's the hearing. Are you telling me that that information was available publicly, says nothing about what's in the record tonight and with that I know you've heard from me enough and I'll be quiet. Seth understands that point and you all have to [garbled].
Mayor Newlands: Microphone.
Harold Carmine: Mr. Hickey made the point that I showed the property values had decreased and we've done more than that. We showed the property values had decreased and we've given you supporting evidence and every one of those supports show you how we came up with our numbers. Our numbers are as of July 1, 2009; our valuation dates are the same dates as yours. The only point that I would like to make is, in the Preserve on the Broadkill, the first one you looked at, I gave you a sale in the Preserve on the Broadkill and this is my final comment of the night; I would like to draw your attention to Page 12 of that report. The Preserve on the Broadkill, Page 12, there's a sale of a listing that was listed in July of 2006 for $135,000 and sold for $85,000. So there's the point that you can not use the difference between the listing price and if you further skew that up to their average price, you see the significant decrease in those lot values.

*The Council minutes provided are a summation of the meeting to be used for informational purposes only. An official copy of the meeting can be obtained through Town Hall located at 115 Federal Street by filling out a FOIA Request and paying any cost associated with the request.

C Duby: Am I correct that the sale date was April of 2010?
Harold Carmine: That's correct.
C Duby: That's also on the wrong side of the 2009 date.
Harold Carmine: That's past, yes. But we show that trend of those declining prices.
Bill Manning: Without that, there were 100 sales that took place right on July 1, 2009.
C Duby: No I understand that and the point I was trying to make earlier, is, that he assessed the value of the lots there at $140,000 and one of the previous sales he had was $267,000.
Harold Carmine: Good point; along that point, and that's the problem, not seeing the market evidence. Within that development there's two phases or three phases, I think. There's some waterfront properties there; there are lots that have better market appeal, then other lots; so without seeing that data, that market data, he's just using a range that he said was there. We don't know where those lots were; were they waterfront; were they bigger; were they smaller?
C Duby: And that's my problem with you saying to us, it should be based on your 58% decrease when you're looking at all of the lots in the Broadkill Hundred; over 3 year period.
Harold Carmine: But I go and show you empirical evidence of lot sales in the Milton area at that sales price; that's the difference.
C Martin-Brown: But he asserts empirical evidence in lot sales, in pricing, in the Milton area, as well; in that earlier report on which these appeal processes are based.
Harold Carmine: In that letter. In that letter, he states a range. I have not seen those sales. He states a range of those sales.
C Martin-Brown: Based on his research as a contractor.
Harold Carmine: Correct.
C Martin-Brown: Thank you.
Seth Thompson: Are there any other questions?
Mayor Newlands: I'm fine, I don't have any other questions right now and we're not scheduled to vote on this right now, so I think we're done.
Seth Thompson: Any other evidence, I take it no.
Dave Hickey: You all have been patient; any person [garbled].
Mayor Newlands: Can I ask you one question Mr. Hickey? Have you done a comparison between the lots at a per acre price vs. 160 lots times the $80,000 assessed? You appraised the entire Phase 3 as X number of dollars, right? Cannery Village Phase 3 you appraised it as X number of dollars?
Dave Hickey: That's the raw land?
Mayor Newlands: Right.
Dave Hickey: $75,000.
Mayor Newlands: Have you done a comparison of that vs. the lots built out at 164 lots when the land improvements got in times $80,000 a lot or $50,000 a lot.

Dave Hickey: That's why I went to that 20% value, which is in essence $16,000 per undeveloped lot; which is 20% of a fully developed lot value. That works out to, on that basis, if you're assuming 5 lots per acre; that would work out to $80,000 per acre. That's how I got that.
Mayor Newlands: That math coincides. Okay. Thank you.
Seth Thompson: I take it that didn't prompt anything from…?
Harold Carmine: I don't understand what he's saying.
Seth Thompson: I don't want to deprive you of the opportunity to respond.
C Duby: Well he said exactly the same thing earlier; he's just repeating what he said earlier and so…
Harold Carmine: We have evidence in our report to support… There's a sale, if you look at our reports, again, that was presented, that shows a sale of Vincent Overlook that's talking about the same thing he has that correlates our value, the same, that's the most recent sale. That is empirical data of Vincent Overlook where we took the average sale price of a lot; compared it with what they paid per raw lot; and compared that with what we came up with; same thing. So you have evidence in our report for that.
Mayor Newlands: Okay, thank you. We need to schedule the voting of this for the next Council meeting.
C Duby: And we will have the minutes of this hearing before then, right; for consideration, because I'm not going to be ready to vote until I read the minutes of what's considered.
Mayor Newlands: They'll be in draft for that meeting.
C Duby: That's okay.
Mayor Newlands: Yes, we'll have the minutes.
C Duby: And I've also asked Stephanie to get me a copy of the January 15th letter, because I was not at the meeting, I guess, where it was passed out; because I don't have a copy of it.
Mayor Newlands: I don't have a copy either.
Vice Mayor Betts: I don't have a copy either.
Mayor Newlands: Okay so we're scheduling the second part of the hearing and the voting, actually, for the June 7th meeting.
C Duby: June?
Mayor Newlands: 7th, it's the next Town Council meeting.
C Duby: Okay, gotcha.

b. Discussion and possible vote regarding a request to close Coulter Street on June 5, 2010 due to an event being held for Governor Markell
Mayor Newlands: This is the Delaware Food Bank Drive. This is actually written wrong; it's not closing, it's just no parking on Coulter Street.
C Martin-Brown: I move that the proposal be accepted as written.
C Lester: Second.
Mayor Newlands: We have a motion and a second. All in favor say "aye". Opposed.
Vice Mayor Betts: I voted. The only thing is, I think the map is not correct.

C Abraham: Well, the map doesn't look correct, because Coulter Street runs clear over to Mulberry; which I don't think that happens. It could be one of those hidden alleys we've not uncovered.
Mayor Newlands: Hold on, hold on; we have to revote here, since we didn't all vote. The map…
Vice Mayor Betts: Is not clear as to the Coulter Street.
C Duby: Ends at Federal; but the relevant part of the map is clear.
Mayor Newlands: Actually, Coulter Street goes to Mulberry Street.
Vice Mayor Betts: It does?
Mayor Newlands: It's an alley way that runs between two houses; it's paved with the brick pavement and goes down to Mulberry Street. It does go through. This is from Google Maps and it does go through.
C Martin-Brown: Mr. Mayor, could I call the question, then?
Mayor Newlands: Yes.
C Martin-Brown: I would like to remake the motion.
Mayor Newlands: We just need the vote. All those in favor say "aye". Opposed. Motion is carried.

c. Discussion and possible vote to change the date of the financial reports from the 20th of the month to the last day of the month
Mayor Newlands: C Lester do you want to give a brief description as to why we would want to do that.
C Lester: Yes. The Finance Committee met last Tuesday and we looked at the Financial Statements and discussed the formatting. It was the general opinion of all the members; one member was not there; but it was a unanimous decision that we should change to a full month; and in order to get there, that would be a month late. At least we would reach the point where we would have a complete Financial Statement; Statement of Income and Expenses. In addition, we all agreed that in addition to the Financial Statement, we should have a spreadsheet, an Excel spreadsheet; the Mayor has seen the spreadsheet. The spreadsheet which showed line items; instead of having to look at department by department; you have salaries or other expenses and you have a line to compare the expenses as we went month by month. So you can get a complete look of the salaries, supplies, etc. I'm not sure… To back up, I think that would be best. Of course, one of the opinions… The opinions of two members were that if we were going to change the Charter, maybe we could change the date of the meeting and move the Council meeting up and that would make life easier for everybody.
Mayor Newlands: Georgetown does the second Monday and it makes their life a little easier too.
C Lester: Yeah.
Vice Mayor Betts: Yeah, maybe that would be a good thing.
Mayor Newlands: Now this also helps balance the reports; we'll have more time to run additional reports; to balance the reports out so we know that the reports are very accurate?

C Lester: Exactly. We need proof that the reports are accurate; which we haven't been able to do.
Mayor Newlands: So this gives us more time to just prove the accuracy of the reports.
C Lester: Exactly.
C Duby: The question I have about this, is we're ultimately getting all of the information, because when you get the next month's report, you're getting the last 10 days of the month, right?
C Lester: That's true, but it may not necessarily be correct. If you look at the Financial Statements for the last; actually for the fiscal year ended 2007/2008/ 2009, there were journal entries that had never been posted. So those Financial Statements that are being prepared for at least the last two fiscal years were wrong. So we need to be able to look at the Financial Statements and be sure they are correct. There are simple steps that we can take and one I'm looking at right now where you can age accounts receivable and compare those accounts receivable in detail to the books themselves. In the past, that has not proven to be the case.
C Duby: I'm not opposing this, because I don't have any strong feelings about it; but I guess I'm just curious about why shifting the time period suddenly means that we'll get correct stuff, as opposed to incorrect stuff. It seems to me that the incorrect is another issue, isn't it?
C Lester: No, we would have time to review all the statements, accounts receivable, accounts payable. For instance…
C Duby: So it's basically delaying it a month; it gives you the extra time.
C Lester: It gives you the time to look at it, exactly.
C Duby: Okay.
C Lester: I mean just as an example, accounts receivable for various items had a credit balance which in accounting terms would mean somebody overpaid the bills; and that's not true. Money was owed to the Town. The Town had not been paid.
C Duby: Had not received.
C Lester: And that had gone on for almost two years, so statements you were receiving for two years were wrong.
C Duby: Okay.
C Abraham: Can I make a motion?
Mayor Newlands: Yes.
C Abraham: I would like to make a motion to change the date of the Financial Report from the 20th of the month to the last day of the previous month.
Vice Mayor Betts: I'll second that motion.
Mayor Newlands: We have a motion and a second. Any discussion? All in favor "aye". Opposed. Motion is carried.

8. New Business
   a. Discussion and possible vote on changes to General Code Section 26017 formerly Section 2-31 – Administrative (1) of the Town Code

Mayor Newlands: I put this on the agenda because this is the Personnel Section and we gave a handout tonight. This got changed with the General Code back in December and when you were given the change sheet, the change sheet just showed what was changed; not what it was changed from; not the original information and what was removed from the changes was the Comp Time that we allowed the employees to take. The new section only had overtime in it. I don't know if that was an oversight, but we are still using Comp Time still; so I personally think that should be put back into the Personnel Policies; that we allow Comp Time number one. Ms. Coulbourne pointed out that we have some grammatical changes; problems with that section; it's got to get cleaned up; and Ms. Duby tonight pointed out that there are actual inaccuracies in there vs. the Charter; so we have work to do on the one section. That's one thing. I don't know if Seth will allow this, but I would like to just in practice be able to just vote to say that we can allow Comp Time, while this is still being modified; so we don't get into any problem that we are doing anything against our Code. So the only that I would really practically like to do is just be able to say that still want to be able to have the employees get Comp Time, because they're still taking Comp Time. We're following the practice.
C Duby: I was going to say, can we simply pass a motion that it's the sense of the Council that we wish the method of rewarding additional work beyond 40 hours, or whatever it is, that we want the current practice to continue until we can make changes in the Code? Is that a possibility?
Mayor Newlands: It's the spirit of what's written here that we want to go forward with; not particularly the words.
C Abraham: I was going to say, because I would like to expand; I have an opinion on a couple of things in here that I would…
C Duby: I think this has a lot of problems and I would hate to say that even the spirit of this; I would rather have us say that we want the current practice to continue until we're able to resolve it.
Seth Thompson: And I think that's easier to do. I think that's going to be an acceptable motion. It's really the way the agenda appears; it's the wording that you're talking about, so obviously it sounds like you're passing on that; but I think there's enough notice there, that you're going to deal with this particular issue.
C Duby: Let me think about it. I move that we express the sense of the Council that we wish the current practice of giving employees Compensatory Time, as well as overtime, the way it's currently in practice, to continue while we're able to revise the Code.
C Martin-Brown: Second.
Mayor Newlands: We have a motion and a second. Any discussion? All in favor say "aye". Opposed. Motion is carried.

Mayor Newlands: Actually everybody here should know June 15 through June 18 we're going to start flushing the fire hydrants so watch your water, basically. We'll get this published on the web. One thing, we're starting to at

least get emails out to certain developments; so if anybody has a way to do this; like Wagamon's has an email list; Cannery Village has an email list; so we can hit one person with an email, saying hey can you publish this to everybody and we hit 70 or 80 homes in each development, which is a lot. We would like to do the same at Shipbuilder's Village; if we can and other places; so if anybody has an idea of ways of getting into other developments without us having to send 1,000 emails, that would be great.
C Duby: What about all of the people in town that aren't in a development?
Mayor Newlands: That too, without having to have 1,000 email addresses; so if we can get it out to target people and they can get it out, that would be a big help; especially with just an announcement like this.
C Martin-Brown: Mr. Mayor, can I be a little picky? Can you just lose that word development and talk about neighborhoods?
Mayor Newlands: Sure.
C Martin-Brown: Thank you, Sir. There's underdeveloped, there's over developed, and then there are neighborhoods. Thank you, Sir.
Mayor Newlands: You're right, you've tried to do that a while ago.

9. Executive Session: Discuss Litigation and Personnel
C Duby: I make a motion we go into Executive Session.
Vice Mayor Betts: Second.
Mayor Newlands: All in favor say "aye". Opposed. Motion carried.
Mayor Newlands: Can we have a motion to come out of Executive Session?
C Duby: So moved.
Vice Mayor Betts: Second.
Mayor Newlands: All in favor say "aye". Opposed. Motion carried.

10. Adjournment
Vice Mayor Betts: I make a motion we adjourn.
C Duby: Second.
Mayor Newlands: All in favor say "aye". Opposed. Motion carried. Adjourned at 9:53 p.m. Thank you very much.