

Town of Milton
Town Council Meeting
Milton Library, 121 Union Street
Monday, March 5, 2012
6:30 p.m.

Transcriptionist: Helene Rodgville
[Minutes are Not Verbatim]

2. Call to Order – Mayor Newlands
Mayor Newlands: We have members of the Public Service Commission here with us tonight, so we're going to take things out of order. We're going to open the meeting up first with a moment of silence and a roll call and then we're going to do the Public Service Commission and take about the Tidewater rate agreement, we'll do that first and then we'll do Public Participation.
3. Moment of Silence – Vice Mayor Betts
4. Pledge of Allegiance – Mayor Newlands
5. Roll call – Mayor Newlands

Councilman Lester	Present
Councilwoman Jones	Present
Councilwoman Duby	Present
Councilwoman Hudson	Present
Councilman West	Present
Councilwoman Betts	Present
Mayor Newlands	Present
6. Additions or Corrections to the Agenda
Mayor Newlands: Do we have any additions or corrections to the Agenda? The only change we're going to make to the agenda is we're going to put Item Old Business, Item 13, b right after the agenda approval and we'll go to public participation and then proceed with the rest of the agenda.
7. Agenda Approval
Councilman West: Mr. Mayor, I make a motion that we adopt the agenda, as amended.
Councilwoman Duby: Second.
Mayor Newlands: We have a motion and a second to approve the agenda, as amended. All in favor say aye. Opposed. Motion carried.
13. b. Discussion and possible vote on the Tidewater Proposed Settlement Agreement of the wastewater rate application
Seth Thompson: Do you want me to speak first?
Mayor Newlands: Yes.
Seth Thompson: Okay, alright Counsel. You may recall that Council asked me to file a Petition for Intervention with regard to the Public Service Commission application of

Tidewater for a rate increase of the wastewater rates. There has been a proposed Settlement Agreement that's been reached. We are a party to that litigation, based on our status as an intervening party. It was nice of the Public Advocate and Mr. O'Brien, an attorney, to come down and answer any questions, but basically to kind of run through a general view, the application sought an additional revenue of \$555,000; I'm sorry, that was the agreement. The application sought something just north of \$900,000 in an increase in annual revenue. The Public Advocate filed it's testimony and sought basically an increase of \$488,000. The staff at the Public Service Commission filed it's testimony and believed that an increase of \$651,000 and change, was appropriate. The parties have come together and have come to a resolution where the additional revenue would be \$555,000. One of the items that is very important is that the proposed resolution would do a phase-in for the Town of Milton over five years; and that phase-in would be at about 18.5% increase per year over the five years. You may recall that part of the basis for intervening was our contract when the sewerage treatment plant was sold to Tidewater and wastewater was privatized. At this point, we're past the five years. The other element to understand, and this is a little bit heavy, in terms of legal issues; but the Public Service Commission doesn't really have the authority to enforce an agreement of two parties anyway; but again, it's somewhat of a non-issue, based on the fact that we're past the five year period that's contained in the agreement for the rates with Tidewater. The other element is the second part says that the agreement simply requires Tidewater to seek Public Service Commission approval to obtain a \$12.50 per quarter user fee rate increase and that's only for the residents of the town at the time that the agreement was made. It also says that it anticipates keeping that rate through year ten. It doesn't say anything in terms of the volume rate. So, I think there was a strong argument that Tidewater has complied with it's rate issue, with it's rate provision, in the contract. Looking at the proposed agreement, it's up to the Council as to whether the Council wants to approve the agreement, the alternative would be to not approve the agreement. You could take a position of no objection, or you could oppose it and we could litigate the matter in front of the Public Service Commission. At that point, presumably the five year phase-in from Tidewater comes off the table and the town could be looking at phasing those increases in very soon; as opposed to over five years. Those are kind of the basics in terms of the more specific issues as far as how the rates were calculated. Again, I can try and answer the questions, or perhaps the Public Advocate can answer questions. Does anybody have any questions from me at this point?

Mayor Newlands: In some of the documents that I handed out, I emailed everybody an 87 page document which was Mr. Howard Woods' testimony and he's the Public Advocate. He's on our side and Tidewater asked for a 90% increase and he actually recommended 102% increase.

Seth Thompson: And the reason for the difference in the numbers there, is the Public Advocate doesn't just represent the people of Milton, it's really representing everybody that could be affected by the rate increase and the problem is, a lot of our neighbors have been paying much higher rates then the town has for a number of years. Essentially, we've been getting a savings, which makes a lot of sense, given the fact that the benefit of our bargain went to Tidewater, so we've received a lower rate over these years; the five years are up at this point. Again, I just want to make it clear that the Public Advocate represents the residents of Milton, but it's not just the residents of

Milton. He represents anybody that is affected by the rate increase and one of their concerns was that people are treated relatively equally to each other. So that's why Milton bears a larger portion, a larger increase, than others, who have been paying more seemingly while Milton has been paying less. Just by way of example, it looks like the people of The Retreat and Country Grove and Bay Front have been paying a higher rate and therefore, their increase is about 7%.

Councilwoman Duby: As opposed to 102% or whatever it is.

Seth Thompson: That's right. As opposed to 111%.

Mayor Newlands: 111% and change, almost 112%.

Councilwoman Jones: Mr. Thompson, how many of these other five communities have supplied Tidewater with a sewer treatment plant and a place to discharge?

Seth Thompson: The answer, at least to my knowledge, is none; so I understand your point. When I say that Tidewater has arguably complied with the Agreement, I'm talking about the rate provision; again, we're supposed to still be getting paid back from Tidewater on the rest of the contract. This is just dealing with that rate provision. I understand your point.

Councilwoman Hudson: Mr. Thompson, my understanding was that you said that they're looking at all the towns and communities being treated equally? My question then is, why even bother to have a contract? We went into a contract without any other town and now we're being told that we needed to be grouped with other towns. It just seems to me that other people should be aware that in effect the contract has not affect.

Seth Thompson: Well and I suppose the argument, just to play Devils' Advocate, the argument is the contract was in effect for five years. We still receive the rest of the consideration and again, arguably, Tidewater has performed on the rate issue. Now in terms of viewing it from the Public Service Commission, it's not that everybody gets treated equally, where everybody is exactly the same; but there needs to be a fairness and I guess maybe if the Public Advocate... I suppose if you would be willing to address that.

Michael Sheehy, Public Advocate for the State of Delaware: Bill O'Brien, back there with me is the Executive Director of the Public Service Commission. The issues with these particular rates and the contract; the contract does affect what's going on now. In the contract, when we looked at the financials associated with the rate and not being changed over a five year period, produce a negative return for Tidewater; which meant they needed to get that from somebody else. So for the five years that were there, essentially the other towns were subsidizing Milton's water, wastewater facility and wastewater use. That's what the numbers say. You may think it is, but the numbers say exactly what they do, which is... Tidewater signed a contract. I understand. The contract's over and now the Public Advocate is arguing that people should pay the fair cost. My obligation, statutorily, in the law, is to make sure there isn't any discrimination; that rates be equitable; not equal, but equitable. And in regulation, the basis for establishing rates should be and is generally, the cost of serving. So what happens is, if you look at what the cost is to serve each of those communities, you look at the revenues that each of the communities produce, and Tidewater comes in and says it needs \$900,000 and we say no you don't; \$500,000, \$550,000 will work and then you have to spread that around to the towns, based on the amount of cost they need to get them up to a reasonable return and that's why the contract becomes an issue; because the contract was signed for rates that will not produce and did not

produce a fair rate of return to the company. You may not believe it, but the numbers don't lie. We have experts financially and engineering experts who have provided us the feedback and pieces of testimony that suggest that. Not just suggest it, but make it clear that some of the towns actually were paying fairly close to their rate and they got a small increase; Milton has the largest number of people by far of any of these groups and by evaluating that, we came up with 100% or 110%, or whatever the number is and I would point out, of course, you know Tidewater asked for a 90% increase across the board for everybody; so the change for Milton is 10% or 12% or 20%, or whatever it is from the request; but it is because of the cost associated that they need to earn a fair rate of return so they can get the investment funds they need to run the facilities and to plan further.

Councilwoman Hudson: Can I ask a question?

Michael Sheehy: Absolutely.

Councilwoman Hudson: You're talking about fair rate of return; did you take into account that by the contract Tidewater doesn't pay one cent in property taxes? That should be part of the fair rate of return? Because other businesses in this town pay taxes and license fees and Tidewater doesn't have to pay anything. Not one cent.

Michael Sheehy: I was unaware of that contract, but it doesn't matter with respect to this. You roll through the costs that are associated with the facilities and most of those costs came directly off the books of Tidewater and then you see how much revenue is coming in and you say, are these things close? And if the answer is they're not close, then you need to move something. So one of the things we did is we moved a bunch of expenses we didn't think were reasonable; but we also recognize that there is a huge deficiency, huge, there is a fairly good sized deficiency in the revenue streams.

Seth Thompson: Mr. Sheehy, just to kind of pin you back on that question. If property taxes were another expense, would that have been factored into the rate of return. In essence, when you look at Tidewater's expenses, if they were required to pay property taxes, would it just adjust the number higher?

Michael Sheehy: What would happen is, they would be able to collect the revenues to do it. So, I mean, from an expense revenue standpoint, basically it's a two piece equation. The equation is you get your revenues to cover your normal, reasonable operating expenses and so sometimes you spread them out over years and sometimes they happen right away; and then you also get the opportunity to earn a return on and return of the investment. The return on the investment is the return on the equity or what you might get from having a bond, or something like that. The return of the facility is called depreciation and so the bigger the facilities, the more depreciation that's taken and depreciation chews you up. At this point, that's what the numbers represent. I understand, you're not happy with it. You were probably happy for five years when they were solid and steady and everything was cool; but that particular arrangement is now over and I have an obligation to treat everybody equitably and the way I think to do that is to make sure that they cover the cost; that there not be subsidies flowing between towns.

Councilwoman Jones: Mr. Sheehy, for our edification, the five communities that were compared here with Milton, if I give you those by name, could you tell me the locations and what wastewater facility accommodates them?

Michael Sheehy: No, Ma'am.

Councilwoman Jones: You can't?

Michael Sheehy: No.

Councilwoman Jones: You can't tell me where The Retreat is?

Michael Steele: No, Ma'am, I don't know where The Retreat is; I've never visited The Retreat.

Mayor Newlands: What is your point, because Hart's Landing, I think, is the only community that's using our facility. The rest of them have their own, from what I understand.

Councilwoman Jones: That's what I'm asking. Did Tidewater invest in these communities with their own wastewater treatment.

Michael Sheehy: Oh, I'm sorry, yeah, they have their own wastewater facilities and that's one of the things that we're trying to evaluate and figure out; that you gain some things with a regional wastewater system, that you won't with each of the little systems; so you gain some efficiencies when you make it bigger and I think Tidewater's plans, moving forward, are to create a regional system so that, for instance, you don't need an operator at each one of the facilities; you only need one at the place there is. So I would expect there to be some efficiencies as that idea is developed and built.

Councilwoman Jones: The reason I ask is because for a property like The Retreat if it's where I believe it is, very close to water... Is anybody familiar with The Retreat? My guess is that it's not built out and the reason I'm asking is, if Tidewater invested in a plant for the build out of the community and it's not built out yet, most likely those that are there are paying higher to cover the cost. Just a guesstimate.

Michael Sheehy: That's a fair question and it's a reasonable question. The answer is we imputed, or we put in revenues for each of those communities that weren't built out and said we're going to pretend like you were built out, because that's how it should be. There's three people and they aren't supposed to be 50. I'm not going to make three people pay for what... So what we did is, we called a revenue imputation and I think it's called Revenues at Risk in one of the documents, but that's what that is. One of the big issues, because of the economic downturn is, developments aren't happening as quickly, but we don't think that's fair to pin that on people who made purchases beforehand and so what we did is we said we're going to pretend; we're going to create this system that everybody who was supposed to have a build out, has it. Okay? And I think that's the way to do it, personally; otherwise you get some really wide disparities in covering fixed costs, that just don't go away; no matter how big the thing is or how small.

Unidentified Speaker: I have a few questions.

Mayor Newlands: No, we're not entertaining; this is not a Public Hearing.

Unidentified Speaker: You let somebody else do it. Somebody else in the audience spoke.

Mayor Newlands: I don't remember, but we're not entertaining questions. Sorry.

Seth Thompson: Sir, do you have a public participation request in?

Unidentified Speaker: I've already signed up for it.

Seth Thompson: Alright, I think that's probably going to be a better time.

Michael Sheehy: It's their rules and that's fine and I'm abiding by whatever rules you guys have procedurally.

Seth Thompson: If you're willing to entertain questions from the audience, but you certainly don't have to do that. Again, we have a public participation policy where the

public can speak at that point.

Michael Sheehy: Just a second. I want to make sure I don't go beyond the ken here. Okay, will I create a precedent in some way by allowing and speaking to questions from the floor vs. your normal policy? I do not want to put in place something that causes you harm later down the road. Because once you let one...

Mayor Newlands: This is not a Public Hearing, so we don't normally have questions.

Michael Sheehy: It's your call, Sir. If you say no questions, the answer is no questions. If you said questions, I would give my best answers I could to them, but I'm not stepping outside the procedure you have.

Councilwoman Jones: I was only going to make a plea on behalf; it's just such a huge issue and I'm sure people have lots of questions about it.

Councilman Lester: I just have a question, if I may? I guess Tidewater provided you some operating costs that you used to evaluate their fee adjustment, right?

Michael Sheehy: I think I understood the question. They have reasonable operating costs they should get recovery for.

Councilman Lester: Right.

Michael Sheehy: Chemicals, work people, salaries, those kinds of things should indeed be covered.

Councilman Lester: From what I've read recently that Tidewater said they really underestimated the operating costs when they purchased this system from the Town of Milton. I have a difficulty believing that, because they're a sophisticated group of business people and they are in the water and sewer business; but if they made a mistake at that point, how can we believe what their numbers are today?

Michael Sheehy: Well the numbers that we have are not projected numbers; we have the costs of the facilities. The only projections we did, was with respect to the number of people who might be there. Projections, I can promise you, that every projection I've ever made, is wrong. I could tell you something now and tomorrow it's going to be wrong; the question is how far wrong is it before you believe that there's a reasonable attempt to make a projection? Companies should be trying their best. At the same time, nobody; probably a couple of smart people, but not me; certainly didn't predict the kind of length and depth of this recession, which has essentially shut down the housing markets; which essentially shuts down the ability for new revenues to come in.

Councilman Lester: But also when you talk about a return on equity, they paid the Town of Milton a certain amount of money. The Town of Milton turned around and gave them back almost the same amount of money; so their return on equity is like having a dollar invested in the plant and equipment. I mean, getting back 50 cents would give you a 50% return on your investment. I'm not sure how they calculate their return on investment.

Michael Sheehy: It's very much like the real world, except it's called rate base, rather than capital and rate base is the money that is dedicated to plant and facilities, less depreciation, less divert... There are some technical things that drive the number down; but essentially it's a value of their plant at a point in time and then we look at it over time to make sure it's not a bad point in time to be looking at it; we look at it for averages, thirteen month averages, and that kind of stuff. So I'm not sure how to answer your question, other than to say, if the operating expenses look normal and reasonable; and we asked oh God, 200 or 300 what's called Interrogatories or

questions of them, with sub-parts to them. Explain this, tell me why this number doesn't match this, etc. So we fell pretty deeply into the numbers that they present and we've looked at the public stuff that they're required to file, and you don't have to believe them. I mean, that's your call. We have an obligation to take the numbers that they have, see if they come within a range of reasonableness, look at the books and see if they match up and then we use those numbers and look forward. We also hire some very bright people to do the same.

Councilman Lester: And who looks at the books, if I may ask?

Michael Sheehy: We have people that go down and audit the books; we also asked the Interrogatories about the books; give us your most recent income statement; give me your most recent cash flow statement; give me your last SEC filing and so we get those kinds of documents, which are public, and we use them and try to tie back.

Councilman Lester: My only concern, is there are a lot of companies like Enron and they did the same thing, you know; they provided statements to...

Michael Sheehy: If it was Enron, it wouldn't be me standing up here talking to you; it would be the Attorney General.

Councilman Lester: Well, that's happened many times and it just... I'm just concerned. What really bothers me is the fact that they claim that they underestimated the cost of operating this and I guess we can't go back and revisit that contract, but it just leaves a sour taste.

Michael Sheehy: I understand. I think with contracts, it's either both parties are happy or both parties are unhappy by the time they're all through; but no, we can't go back and use that contract for anything other than what we use it for, which is evaluating where they were or would have been and what was driving this rate increase and what we found was part of the rate increase was being driven by the financials coming out of Milton.

Mayor Newlands: Mrs. Betts, you had a question?

Vice Mayor Betts: Would it have been to our advantage not to sell the plant to Tidewater and let them build their own new plant for the upkeep and bringing it up-to-date?

Michael Sheehy: With all due respect, Ma'am, I'm not going to answer that question.

Vice Mayor Betts: I don't mean for you to answer for Tidewater, but if we had gone to Tidewater and told them we want them to service us, would it have been to our advantage because of the fact that they would have had an up-to-date plant?

Michael Sheehy: Well you generally like stuff newer, rather than older, but also the value is higher, because things cost more when they're newer. You have efficiencies that you gain, but the actual cost of the construction, wages; it's kind of tough to say. Whether you net out even or not. That's why you've got to look at the numbers.

Vice Mayor Betts: I didn't mean Tidewater, I meant a new plant. If we had put in a new plant...

Councilwoman Duby: Yeah, I was going to say, it would not have been Tidewater who built it, it would have been us and we would have incurred a \$20 million... We were preparing for a Referendum for \$20 million indebtedness to build a new sewer plant and my guess is, we'd all be paying more. I don't like this. I think my sewer bill is already too high, where it is, so I'm not going to be real happy over the next five years and I doubt anybody in the room is, but, we also would be paying a lot more and would have been paying it for the last five years if we had incurred that \$20 million

bond to build our own sewer plant.

Vice Mayor Betts: That's not what I was talking about. I was saying if we had gone with Tidewater and had them just service us from another location...

Councilwoman Duby: I didn't understand that ever to be an option. Did you?

Vice Mayor Betts: No, but I was just wondering now it looks like that we may have been.

Councilwoman Hudson: If they're going to have a regional plant, we will eventually be serviced by another location.

Michael Sheehy: We think they should; they think they should; it's now a matter in this kind of economic development situation, getting the facilities and the investment capital together to put together something like that and tying them together. You're going to have to put pipes in from each of these individual little ones, okay, to the bigger one and we think it will take some years to pay off, but you can see where the efficiencies come in. You get better prices on chemicals; you don't need your trucks, as much, to run around and do stuff; you've got experts, instead of having five or six, one at each of the facilities, you have one and so that should eventually eke through and that's what investment's meant to do. It costs you a little bit more up front, but eventually your efficiencies should overcome that and so, in terms of then vs. now; I really wish I knew a couple of things then that I know now that I would do differently.

Vice Mayor Betts: I imagine they had rather... Thank you.

Mayor Newlands: Mr. Sheehy, how much have you taken into account what Tidewater paid for the facility? Because what Mr. Lester was getting to is they didn't pay us anything for the facility. We gave them \$2.5 million we had in escrow for impact fees; they gave us back \$2.5 million. So in essence, they paid nothing for that plant.

Michael Sheehy: Now we're getting into development. There is a process, in both water and wastewater where the developer usually puts in money to offset the original cost of the facility, so that at the end of the period of time, they project the build out; at the end of the period of time, they'll collect as much money as was necessary to support the plant at the build out numbers. So there's a couple of ways it could be different, but we kind of did that by imputing to them what the revenue stream would have been and then we compared it to expenses and that's where we are. I know, believe me, do you think I wanna support that kind of number? The answer is no, I don't want to support it, but I have no choice. The law requires me to do what is right; the law requires me to treat everybody equitably and that doesn't mean everybody pays the same dollar a day, or whatever it is. What it means is you pay what it costs to serve you and according to the numbers we looked at and I'm very comfortable. The guy we hired was a great expert at both engineering, because we looked also at excessive facilities. That's one of the things, you know, did they over bill; are they trying to... Nope, so we had our engineer and the financial team take a look at it and the Commission did too. The Commission had experts and staff look at it. We hope you agree to not object or sign on. I'm not making an appeal. I think you should, because I don't think there's a better way at the end of this road, one way or the other for you to be any better off than you are now. Alright? And I say that because if it goes back to litigation, there's no guarantee about a phase in, for instance and when you get to litigation, everything you've done in terms of looking at a settlement is off the table. So I don't know what that turns into; other than more expenses or Seth gets another year of college out of his kid, or something; because it's an expensive process and one

of the reasons that we do settle cases is because we don't want to spend that money and we... I don't call it wasted money, okay, Seth, in front of you at least; but it's money that doesn't need to be spent if you can come up with a reasonable number that most of the parties can agree with. I understand you may not and if you don't, that's your call. You obviously are in control of that decision; but I don't think at the end of the day you're going to be any better off, this is my opinion, and you probably would be worse off. But that's, again, an opinion. The Public Service Commission has its own position on these things. They took a slightly different position with respect to how the numbers were going to be pushed around. I have an obligation to deny subsidies. That is something I just don't think is a good way to get money, economically distributed. It just takes away from production. When you use subsidies, what you're saying is we can't use this money productively; we're going to let somebody else take care of it. I hope I answered as well as I could the questions you have; but if you have lingering doubts, and I saw you shaking your head Ma'am, please...

Councilwoman Jones: They bought that hole in the river for a song and the only thing I would ask now of the Mayor is I do notice that it is for discussion and possible vote; I hope at this particular segment we don't vote, because I would like to hear from public participation. Thank you.

Mayor Newlands: I was going to do that. I was going to move that down. We're going to move that down anyway.

Michael Sheehy: Certainly they are your rules and way to go. I do want to point out that there is a fairly short period of time to get this before the Commission. I'm not... Really. Take as long as you need to. If it doesn't match up, it's going to die on its own accord. We'll try to keep it opened as long as we can, but we've already held it open as Seth knows, to allow this meeting to occur and you have options from rejecting to I don't object; which means I ain't happy. It's kind of like No Lo Contendre, I guess, in the law business; which is I don't think you're right, but I don't have enough to prove you're wrong or you can accept it and sign on. That's obviously your decision.

Mayor Newlands: At Hart's Landing they did not accept it, correct? They just ignored it.

Seth Thompson: They filed a Letter of Non-Objection.

Mayor Newlands: Non-Objection.

Michael Sheehy: That's exactly what they did. Which happens. It doesn't mean the same as support or non support, but what it does mean is I'm not going to file suit or take this any higher in terms of court issues, is basically what it says.

Mayor Newlands: And then whatever the Public Service Commission says, goes; so whatever rates the Public Service Commission sets; by them not objecting they're basically agreeing.

Michael Sheehy: They're not going to take it up with anybody else and that's the next step. If the Public Service Commission sets rates and you don't like them enough, you can try to take them to Court. Once again, an expensive process that may or may not work, but that's your call. You guys are all adults and can make your own decisions. From the Public Advocate, that's my perspective. I think I've probably covered anything you might want from the Commission but if you would like to have Bill O'Brien, who's taller and better looking and younger than me, come up here, we could certainly arrange for that, as well.

Seth Thompson: I don't know if Mr. O'Brien's willing, maybe we'll take public participation comments first and then have discussion and maybe he can clarify anything that comes up during public participation.

Michael Sheehy: We're here to provide you with the support and advice and counsel that we think you could use; but again, it's your call. So if you want us to do it that way, that's the way we'll do it.

Seth Thompson: Mr. Mayor, it's your call.

Mayor Newlands: Yeah, I would like to do public participation now. Thank you.

Michael Sheehy: Thank you. **(To be continued below.../)**

1. Public Participation

- a) Ed Harris: 304 Behringer Avenue: Quick background for the people who don't know me. I've lived here now 18 years. Basically, I've lived 18 years on Behringer Avenue and operated a business here in town. Nothing's changed. My street's the same. Water coming from my pipes is the same. I have no sidewalks. I have no gutters. Most of the houses on my street are dirt driveways, okay? Nothing's changed except for my water bill's gone up; my taxes have gone up; I see no benefit to any of this that's taken place. First of all, I want to ask this gentleman a questions. Where do you live, Sir; wherever he went. Do you live in one of the new developments?

Seth Thompson: Are you asking for the Public Advocate?

Ed Harris: No, I'm asking the gentleman that just gave a speech; you shut me down and I wanted to ask him a quick question. Where does he live? Does he live in one of the new developments or in Milton proper?

Unidentified Speaker: Are you talking to me? I don't live down...

[unintelligible]

Ed Harris: Okay. Well that's fine. From what I understand, the five developments that you're talking about all new developments, relatively new developments and the problem that I have with the whole premise of this not equitable picking up the cost of water is, you know, you're talking about raising our water rates almost 100%.

Unidentified Speakers: Sewer rates.

Ed Harris: Sewer rates that is, I'm sorry...

Councilwoman Jones: Over 100%.

Ed Harris: Over 100% now. Well I've lived here a long time and I can understand them going up, I just assumed we were getting really reasonable water; but the people that bought in these other developments, when they went to settlement, they understood they were going to be paying these higher rates. You're talking about residents in this community that never come to a meeting; the majority of people never come to these meetings, that are on limited budgets, a lot of senior citizens that live back in these developments. When you're increasing that amount, just at the drop of a hat, it's impacting them. It's impacting their households. Then you're talking about increasing taxes to build a new water tower coming up on top of everything else. I mean, how much is enough that we're going to see as far as residents? That's my number one concern. I've got to get it in in three minutes. You haven't seen me at these

meetings in a while; there's a lot of things that I see around the town that really bother me and part of it is Code Enforcement. You know, what's taken place and what I've seen I have a couple of questions for the Council about the Code Enforcer. From what I understand, isn't there a Sign Ordinance in town?

Mayor Newlands: Yes there is.

Ed Harris: As far as size, as far as architectural style? Can someone explain to me how M&T changed their sign and got by with putting that large obelisk on the corner down there? Who allowed that? Okay, that's number one. Because I know Ms. Suthard had a problem when she changed her sign; they pretty much rang her through the ringer to improve her sign, but no one said a word on the M&T Bank. Okay? Another thing, as I know, one of my neighbors came to me and I addressed it years and years ago, about the property up on the corner on Behringer Avenue. That's turned in basically, a piece of Light Industrial property. Any given night when I drive back by that property, there's at least 25 to 30 other cars, trucks, heavy pieces of machinery that are parked in that lot. I understand that everybody needs to run a business; I had a business myself; but if you're going to allow that on that corner, I want to know if I decide to take a Walk Through Time and put it in the house that I own across the street from it and put stripping vehicles in that lot, are you going to allow that? Is that legal for me to do that? If my property is zoned R-1 and that property up on the corner is zoned R-1 also; so how do we work that? And you know, as far as being lax on Code Enforcement, I had to go into the town office about two or three weeks ago; there's somebody running an antique shop; basically she has an antique shop, in her house, and would open it every single weekend; post a sign on the street; Estate Sale, Friday, Saturday and Sunday. My business license fee was raised to \$100. I want to know why she doesn't have a business license? Another problem I have as far as appearance of the town, through the summer I never said anything; but I watched vacant lots with grass that was at least 3' tall in the center of town, that no one really addressed, okay? The Garden Club does an incredible job. Thank God for the Garden Club, because to me they're the only shining light that I see that improves the appearance of this town, because it's gradually getting worse and worse and worse, as far as the appearance. Appearance is everything. We have trees that are planted in the downtown area, that were meant to be trees, not shrubs, that are being constantly pruned; knocked down to half their size. I mean all these little details. When people come into this town and take a look at the community, they perceive an image and the image right now and I understand we're in the middle of an economic downturn and things aren't good, but if you don't keep the appearance of this town up, it's not going to encourage people to live here. It doesn't give a good reflection on what we are as far as a town. But anyway. That's it. Thank you.

Mayor Newlands: Just to let you know, the Code Enforcer... Mr. Harris, the Code Enforcer is out every day, looking at town and he does give letters to people who have problems and if there's grass issues, he does get after the people with the grass issues. Also we're working with Dry Zone to try and clean up that area. So Ms. Jones has been working with the Code Enforcer to address Dry Zone.

b) Don Molina, 330 Behringer Avenue: I'm at that property on weekends with my family. When I bought at that location; my background is I'm a City Planner by profession; been doing Code Enforcement and Zoning for over 30 years; I inquired into the zoning classification of that area and I was told it was R-1 and would remain an R-1, so I went and built my house at that location. Recently, since last summer and this was brought more to my attention by my wife; we have been noticing an increase of activity at the adjacent lot, which is 116 Atlantic Avenue where Dry Zone parks their trucks and vehicles. I started about a month ago to inquire with the town administration, filed a FOIA request, looked into the file and I found that the former operation, National Screen, was given a conditional use for it's operation with the storage of material inside a building. They have violated that conditional use. In addition to that, they're operating one or two more businesses without going through the procedure of getting into a conditional use zone; and in reality and for those members who have some legal training; they have lost their constitutional protection. They're illegal. They're completely illegal. They should be closed. I just want to say that the fact that you have such an intrusive activity in an R-1, is actually detrimental, not only to my property, but it's also detrimental to the adjacent properties. During the summer, when we tend to use more natural ventilation in the house, we have our windows open, we can smell some of the fumes coming in through the window from the vehicles being parked adjacent to us. In the mornings, they start their operation and we can hear that noise. This morning I was there; I was surprised that they were idling some of the trucks early in the morning; not that I was awakened, but I was up earlier, but you could basically hear that noise. I do have a concern now that the 116, apart from the illegal use, and illegal operation, occurring right now; there's the commercialization of 116 has begun. They have brought electricity to the site and while bringing electricity is not innocuous in itself, the fact that they're going to use the electricity to maintain their vehicles is the first step to the commercialization of that property. I have gone through this in various cases in Pennsylvania, where I do code enforcement, and you're looking at the progressiveness, the progressiveness of the activities that are taking place. In that sense, you're seeing two things. One, the town has not enforced it's Code. The owner has failed to live up to the spirit of the Conditional Use that he was granted, back in 1986. So right now, they are operating; I know there's been discussion, but I don't know if you know that he's not legally approved to operate as he is right now. So you can go out there tomorrow and shut him down and you're in a good position. One thing I will say, assuming you move in a progressive, this is one of the first opportunities you will have to restore the integrity of the R-1 district at that location.

Mayor Newlands: We are actively working on this project. The Code Enforcer is gathering all the history and all the information to present to our attorney, so we are actively working. We are not ignoring this. We are actively working on this.

Don Molina: I just want to say, I come here tonight as a friend. I know I have legal remedies that I can pursue and I don't want to go there.

Mayor Newlands: The electricity, is that on the vacant lot next to you?

Don Molina: That's on the vacant lot. Thank you very much.

Mayor Newlands: Okay, okay. Thank you.

- c) Kathryn Greig, 326 Union Street: I'm speaking for myself tonight, for a group of business owners and for the Garden Club. First of all, I just have one comment to make about the increase in sewer; what really aggravates me is that in the spring, summer and fall, I use tremendous, as many of you do, amounts of water to take care of gardens and other things; including 10 to 15 gallons of water that I fill in jugs to take down and water the town gardens, almost every day in the summertime; and certainly I don't think the sewer bill should be based on how much water I use; because so much of it is not going down the sewer. That's all I'm going to have to say about that. Now my big thing tonight is to introduce to everybody the new "Welcome to Milton" brochure. I gave everyone up here one and there are plenty of them back on the table. A group of the businesses in the downtown area and that on the outskirts, and including any business that has a Milton address, we are really trying to present a positive image to Milton and to get people to come here to shop, eat, take care of events. We printed this last year and it was this size. Once it came out, so many other businesses wanted to be a part of it, so this year it is this size and on one page we have pictures, if you can see, of different events that occur in Milton and this page is courtesy of a grant that was given to us by the Milton Community Foundation, thanks to Councilman West. The other ads are paid for by the businesses that are advertised in here. We have notice about the antique shows, about the art shows, about different events that the Chamber sponsors, the Fall into Milton; we even gave a little free thing to the Wednesday night concerts, because they didn't have any money to put the ad in. They came in Saturday and we currently have them at the Antiques in Milton and a number of other places. I would like for someone, maybe Robin, to take the excess ones back to the Town Hall after tonight's meeting. By the end of this week, everybody who is advertising in here should have them. We take them to the Ferry Terminal; we take them to all kinds of places. If you travel anywhere and you are going to Pennsylvania, New Jersey, Maryland, Virginia and you think there's a spot, take these; restaurants, other antique shows, antique shops, little boutiques, rest stops, anywhere like that; please stop by Antiques in Milton and get some, because we've printed 5,000 copies and we really want to get them all out there, so that people can come and see what a really great place Milton is.

Councilwoman Duby: Kathryn, can I ask you a question about the distribution? I notice that Dogfish Head is not a listed sponsor, but it might be a good idea to try to ask them if they would put some out there, because all those people come out there for tours.

Kathryn Greig: They do take them. They do not take... Thanks to new council person, Kristin Patterson, she's taken them out there. They will not take an individual business card of any business, but they will take these.

Councilwoman Duby: Great.

Kathryn Greig: The other thing is in regards to the Milton Garden Club, I see

that the Town Manager has given you a little preview. The Garden Club is putting in irrigation in our gardens, to get rid of the hoses, to get rid of the water flying everywhere, as a method to save some time, save money, but it is taking just about every penny that we have. We had an excellent garden tour; we had a very nice Holly Fest; we are working again; we'll be selling plants at the Farmer's Market, but we do have a tour book, a garden tour book and we have these pages in there where people give us \$1, as a patron or as a little sponsor; we can them One Dollar Ads. It is very helpful to us, so if you would like to have your name put in the garden tour book, just give me \$1 and I'll see that that happens, or maybe you can give \$5 and we even take cats, dogs, some people put in memory of, and that's okay; we don't draw any lines about that. The last thing is congratulations to the two new council people and a special thank you to candidate Jones, who put her time on the line and a thank you to Deanna Duby and Mary Hudson for the work you've put in. Thank you.
Mayor Newlands: Thank you Ms. Greig.

- d) Gwendolyn Jones, 204 Atlantic Avenue: Good evening. I appreciate your letting me speak tonight. Most of the people that attend this meeting know more or less what I'm about at this time. I have a question regarding the Referendum. In fact, a number of them. Going by the paperwork here and the description regarding the water usage. It says that 2011 there was more than 350,000 gallons of water per day; peak summer use is about 600,000 and that all coincides with the previous speaker regarding the use of irrigation for agricultural wells. I think to deny that, to ignore the questioned intelligence behind it, is really sticking it to the people who have to use that kind of water and may not be charged sewerage on agricultural water, but they certainly don't need to be charged for the processing and to make it potable. The water comes out of the irrigation well; whether it's on somebody's property or shared, or something like that. The water that's used, whether it's in one main well of the town or the main well and a lot of irrigation wells for the people that decide to put them in; I think that should be a choice, but it shouldn't change. We're looking in here by your letter, the peak is 600,000 gallons of water a day and of course, probably, to some extent more people who are seasonal residents, not that too many, I don't think; in order to just flush the toilet. The other is washing cars, watering lawns, gardens, and things like that. I don't think they're taking into question with a 11 million gallons a quarter; that's what, 120,000 something gallons per day? I think, with these things in mind, it is certainly worthwhile considering alternatives before we start taking a \$3.5 million chunk and making us swallow it. I'm not happy about it. The question was raised about revenues. Again I go back to my previous issue that Milton, right now, makes people pay for processing the water that goes on the grass, washes the dog, the car, etc. Is it the very same quality that comes out of our faucet? Aside from the fluoride, and with the chlorine in it, I don't think it's that smart to be spreading it around and we certainly don't need to add to the strain and the requirements of the water in line with the Fire Marshall's requirements. Somebody previously said at one of the meetings that it's against the Town Charter; there are a couple of issues here I think the Town Charter really ought

to be addressed and changed, because at this point between non-competitive bidding, etc. and this water issue, I don't think that \$3.5 million, right now, in this economy and looking to spread it on people for 30 years into the future, is the smartest idea and I will be pursuing this. Thank you.

Mayor Newlands: Thank you. Two issues with the water. One, we need a redundant system on the south side of town and two, we have a very shortfall on the water volume that we need to have for fire protection. If for some reason we have a fire and those towers that we have now get drained or get reduced in volume, the pumps that pump water into those towers, only pump at 500 gallons a minute and we need 1,500 gallons a minute for fire suppression; and that doesn't include all the rest of the water that we need to supply all other people throughout town; so we need about 3,000 gallons a minute of pumping capacity and that's where the towers come into play and we need additional storage to satisfy the Fire Marshall's requirements and also we need to be on the other side of the river and have a redundant system. Those are the key reasons that we need to do this.

Gwendolyn Jones: I gather that. Well considering that there's 11 million gallons of water that's missing, and nobody knows where that goes, and considering that the agricultural wells can supplement some of that and it's going to reduce some of that load that's coming out of the towers...

Mayor Newlands: That's only about 60,000 gallons a day that we use for the irrigation. It's not that much. Percentage wise it's not that much.

Gwendolyn Jones: Well, there's 11 million gallons, that's 120,000 something gallons per day, per household.

Mayor Newlands: And we are working for accounting for a lot of that. There's a lot of things that we do that are not needed; like flushing hydrants, things like that, so there's a number of things that we do, that account for that. The issue though is we still need more than 225,000 gallons of capacity, in town and we still need a redundant system.

Gwendolyn Jones: Okay, well, I look forward to getting more details and information, because I think this is not too smart to be putting up a Referendum when there are so many variables that are unknown or wrong. Thank you.

Mayor Newlands: Thank you.

- e) Mary Schwanky: I'm here to speak on behalf of Milton Speaks. I've been asked to come and represent the organization and to introduce it to those of you who may not be familiar with Milton Speaks. It was the brainstorm of David Downing, who conceived the idea of Milton Speaks. The Mission of Milton Speaks is to build a better community through more involvement at the grassroots level. It's not a political organization and although the name of it is Milton Speaks, it's not going to speak for anyone. It's going to become an avenue for the town's people to speak for themselves and have their thoughts and their ideas presented to the town, hopefully with the involvement of our Mayor, our Town Council, and our Managers. The goals of Milton Speaks are to fulfill our obligation as citizens to participate in town planning; another goal is to improve communications among citizens and between the citizens and the town and between the town and it's citizens. Another goal is to assist our town

leaders in developing our next Comprehensive Plan and we also have a goal to encourage participation by our Mayor, our manager, town staff, our Town Council in all of our community events; not as officials, but as citizens of our communal town and our community. And lastly our goal is to create a forum for our citizens in Milton to express their views on town issues in a constructive way. We've made quite a bit of progress to date. The organization was formed early last fall and so far we've begun to build a non-political grassroots organization. David Downing and other members have met with a number of local individuals and also with organizations, such as Chamber of Commerce, the Economic Development Council, also with the Mayor and with the Town Manager and has received a lot of support for the organization, for it's mission and it's goals. So, I'm here to announce that we're going to be sponsoring our first town-wide public event and that meeting is going to be held on Saturday, April 21st from 1:00 p.m. to 3:00 p.m. and it's going to be held at the Draper Community Center at the Bethel A.M.E. Church, which is on Mulberry Street in Milton. It's going to be a structured meeting, with brainstorming sessions; all structured and the sessions are going to be planned with a facilitator, so that we can all, in groups, develop what we feel are our priorities for our future and our town's future. We ask that you plan to attend. We hope all of our representatives will be there and that you'll be there, as well; and our citizens and officials can come together in a positive way to consider our future for our town. Thank you.

Mayor Newlands: Thank you. And I just have one announcement to make.

Richard Miller asked me to let people know that Cannery Village now has a formal Civic Association that's been formed, so if anybody has any questions they can speak to Rich Miller. Okay let's go on with the rest of the meeting.

Seth Thompson: Mr. Mayor, did the public participation prompt any questions for either the Public Advocate or Mr. O'Brien, on behalf of Council?

Councilwoman Jones: That's what I was going to ask. Was this the opportunity to speak about the wastewater, even though they hadn't signed up? Is it now, or is it when we get to the issue.

Mayor Newlands: No, it would be now.

Councilwoman Jones: I don't think they understood that.

Seth Thompson: If you have questions?

Mayor Newlands: How many people wanted to speak about the wastewater? That's it? Okay.

- f) Allison Howes, Spruce Street: I just have one question. We were talking about the different communities and whether they had three people or 303 people and whether those communities were built out. I would like to know if the Public Service Commission had considered the sub-divisions that are included in Milton, like Heritage Creek, Cannery Village, Wagamon's West Shores and also all the empty lots that we discussed in meetings in the past to build out Milton so to spread that cost? So I would like to know if the Public Service Commission considered that.

Mayor Newlands: Mr. Sheehy?

Seth Thompson: We wanted to have all the questions from the public.

Mayor Newlands: We only have one more person.

- g) Mike Cody, 304 Gristmill: On the Tidewater issue, the gentleman mentioned that one of the expenses that they used to figure this is depreciation. If Tidewater paid \$2.5 million for the facility and the town gave them \$2.5 million, that's essentially a zero for the cost of the facility. Did you impute depreciation or did you use what they gave you as depreciation to do your figures?

Mayor Newlands: Is that the only question you have?

Mike Cody: Yes.

Mayor Newlands: Okay, let him come up now and speak on the microphone. Thank you Mr. Cody. Mr. Sheehy can you come up and speak on the microphone?

Seth Thompson: I think they're figuring out the technical answer.

Mayor Newlands: Okay.

Seth Thompson: Do you mind? I think we had two questions, if either of you could address them. I realize they're somewhat technical, I think.

Bill O'Brien, Director of the Public Service Commission staff: Hello. So I work for the five member Commission. There's a vacant seat right now so it's four members, but they're the ones that make the decisions and they're the ones who will be ruling on whether or not to accept the settlement, if it's proposed. I'm here to answer any questions regarding process that you have. I can address a question that was asked earlier also; but in the end, of course, I'm neutral as to what the Council decides to do. If the Council does not sign on and decides to object to the settlement, then we will litigate the case and we'll move forward. I think from a very high level, Mr. Thompson got the risk/reward down when he said that the settlement provides for a phase-in that may not occur if the case is fully litigated. From a very high level, that's essentially the risk/reward that the town is looking at for its decision here today. But to answer the questions regarding return on investment, yes, in most of these developments, including Milton, the plant was contributed, so any contributed plant is not depreciated. There's no return on it. The only plant that has a return on and is depreciated, is anything that's added later; something that's an upgrade or a replacement; then that becomes the rate base. But certainly anything that's contributed, like you said, there's no investment involved, so there's no return, there's no depreciation on it. So that's that answer. Certainly if you don't sign on then process wise, what will happen is the other parties will decide whether they still want to sign on to what's called a partial settlement; meaning not all of the parties agree to it. And then the evidentiary hearing would be the Town of Milton vs. the other parties who want the settlement adopted by the Commission. If the other parties decide that well, there's too much risk now; not all the parties are on board; we'll just go back to our original litigation position; then everything is off the table and the case is just fully litigated before a hearing examiner and then it's taken to the Commission for a decision. So process wise, that's how this will unfold, but that was one question. There was another question.

Mayor Newlands: The other question was...

Seth Thompson: The build out of sub-divisions in Milton itself.

Bill O'Brien: Right. I hesitate to go into the different positions, because you can go on the website and you can see staff's position in the testimony by Robert Henkes and Brian Kalcic with their supporting schedules with their testimony regarding their positions. For the Public Advocate, you can go on the website and see Howard Woods' position. But, no, the build out, the lack of build out was more of an issue with the new developments that are other stand alone systems that TESI (Tidewater Environmental Services, Inc.) services. I believe the Town of Milton was considered, I think there's 1,800 customers there; and no, there was no imputation, I believe, of further built out from Milton. I think if Milton built out there would probably be concurrent expenses that went with the additional revenues, whereas the other new developments where the developer has already built the system to these lots and just haven't collected impact fees from the new home buyers, because of the lack of build out. Those are the developments with the imputation of revenues took place; which, by the way, is not a completely settled principle of rate making, so that's another issue that would be possibly not accepted by the Commission and it's a position taken by the Public Advocate and the Commission Staff.

Seth Thompson: So just too kind of summarize that. The proposed settlement takes into account some imputed income that the Commission might not accept and if the Commission does not accept the theory of imputed income, potentially the rate is higher.

Bill O'Brien: Correct.

Seth Thompson: Okay.

Mayor Newlands: So we do have about 1,000 vacant lots that have not been developed yet. We have two major sub-divisions that have had no work done whatsoever and two or three or four other sub-divisions that are ongoing in different phases; so they have not been counted in?

Bill O'Brien: You know what. That's why I hesitate. There's a lot of testimony on the record and if that's in there, then it's in there. You might just want to go and look; but if that's something that you want to find out, then you can not sign on and we can litigate the case; but I have a feeling that the imputation of revenues was only for those developments where they were spreading costs that were meant for say 180 development build out and they were trying to spread it over 40 people; and that's why for these stand alone developments the proposed rates, when they came in with their application were much, much higher. Some over \$2,000 a year and then after the consultants weighed in they were much less. But I don't believe that took place for the Town of Milton, because I'm not sure the infrastructure is in place for those and that an extra payment was made at the time. Since the entire plant was contributed to TESI, they don't have the rate base for Milton that they might have in some of these other developments; so I'm not sure the same imputation of revenues would take place. But I think the gentleman who had the question about investment earlier, hit the nail on the head. This case is driven by operating expenses, more so then the return on rate base, because most of this has been contributed. It's the operating expenses that apparently, I'm just hearing that now, apparently they were underestimated when they signed on to buy the Town of Milton's system, but the operating expenses are going up every year; there are new

regulations by DNREC that require a certain number of visits, that require a certain amount of purification at the treatment plant. It sounds like I'm trying to sell this settlement, but I'm really not; I'm neutral. But one of the benefits that was mentioned earlier is that Holland Mills will eventually be hooking in to the Town of Milton's treatment plant and Holland Mills' annual rate, of course, is more than what Town of Milton will be paying even after the entire phase in is out; but they are now subscribing certain costs from the treatment plant to Holland Mills because they are now, of course, sharing in the treatment there. The other stand alone wastewater communities have their own treatment right there on the site. You had a question earlier about whether they had treatment there at the developments. But if you have questions about process, I'm certainly here to answer them.

Councilwoman Jones: So if I follow your logic, Hart's Landing, which is using our facility; is that correct Mr. Mayor?

Mayor Newlands: Yes it is. Yes.

Councilwoman Jones: That's part of a processing cost; part of an operating cost and how do you differentiate between the cost to the Milton residents and the cost that the plant runs to say, service, Hart's Landing and then you said Holland Mills will soon be on it.

Bill O'Brien: I thought Holland Mills was the only one on it.

Mayor Newlands: Yes, I'm sorry, Holland Mills is on, not Hart's Landing.

Bill O'Brien: Yeah, Hart's Landing is on the other one. We recently had a meeting with Hart's Landing and their main concern was that they read the testimony and they interpreted it as they continue to subsidize the Town of Milton and they didn't want to sign on because they thought their rate should be lower and the Town of Milton's should be higher, but in the end they decided not to fight it and to simply not object. But that's just to give you a flavor of we're getting certainly hit from every single community, thinking they're paying too much and someone else is paying too little.

Mayor Newlands: Just to let you know, when the sub-divisions are built out, the developer's are putting the infrastructure in, not Tidewater.

Bill O'Brien: Correct.

Mayor Newlands: Okay.

Councilwoman Hudson: I have a question. A couple of residents have asked about irrigation and that water is treated and then going right into the ground and not back into the sewer plant; so basically every time we irrigate our lawns or wash our cars, TESI is getting free money; was that taken into account? You talked about expenses.

Bill O'Brien: Right. Most of the expenses are fixed expenses. The Town of Milton is the only community, out of all these, that has a rate design that includes a usage element, which is what you're talking about. They take the metered amount from the water and they charge you... Who's the water provider in the Town of Milton? Is it Tidewater?

Mayor Newlands: The town is.

Bill O'Brien: Oh the town is. Okay, well they're using that metered data, in part, to charge you for wastewater and that's true, if you are taking water through that meter and you're not sending it down the sewer, then that is obviously

water they don't have to treat. But the case is built on a – it's called a Test Year – of actual data, so they're looking at their actual expenses and divvying it up. I've got Tidewater for water and I have an irrigation well on my property and it is not metered; so I don't pay for sewerage on that; I don't pay for water on that either, so right, you would have to have a separate irrigation well in order to get away from that, or a separate meter. Some communities and this is something, I don't know, you could talk to TESI about, but some communities when I lived in the City of Dover, if you wanted to pay for a separate meter for your sprinkler system, you could do that and they would charge you just for the water on that meter usage and on your other meter they would charge you for water and wastewater. So there are ways you can do that, but in the end, they looked at actual expenses and spread it out; so they're not making extra money because of that; at least based on their filing with us.

Mayor Newlands: And we do allow irrigation meters.

Councilwoman Jones: Just to understand, is there any provision in the system we have right now which ties us and the water that we're not using for sewer, but we pay about half the rate, don't we again, how it interprets to Tidewater once you send our meter readings?

Mayor Newlands: What do you mean half the rate?

Councilwoman Jones: They charge us per rate for our usable water; treated water; through Milton and then they charge us a rate; can those meters ever be separated?

Mayor Newlands: We don't have meters on the sewer. We only have meters on the water.

Councilwoman Jones: That's what I'm saying. Can that system ever be changed over to where Tidewater uses their own meters to only charge us for what is used in the sewer system?

Mayor Newlands: I don't know how you would know that without having separate meters.

Councilwoman Duby: That's what she's saying.

Councilwoman Jones: That's what I'm saying.

Councilwoman Duby: She's asking if it could be changed to a system that has that?

Councilwoman Jones: Could that system ever be transitioned into where Tidewater is now required to meter the homes for their sewer usage.

Councilwoman Duby: Then the bill would go up even higher.

Mayor Newlands: Yeah. You want to meter the sewerage going out or the...

Councilwoman Jones: You would give more accurate than what it is when I'm watering my yard and my lawn and I know the answer is going to be spend \$1,500 and put a meter on. Not everybody can do that.

Mayor Newlands: Right.

Councilwoman Duby: But if Tidewater put the meters in for their use, then it costs them more and they come back and say we spent all this money to put those sewer meters in, so we need a higher rate.

Mayor Newlands: What the Town of Lewes does, is they only charge 80% of the water usage for sewerage; they reduce it because there's a certain factor of water that's not going back in.

Councilwoman Hudson: Well since the Town of Milton is giving the water meter numbers to Tidewater, perhaps we could just automatically give them only 80% of the numbers. [laughter and applause.] If Lewes can do it.

Mayor Newlands: No comment.

Councilwoman Hudson: I also think and I've said this before, that we should raise or increase what we're charging Tidewater for that information; we're using our men, our public works men, to go around and read those meters and then we're giving that information to Tidewater. I think we're giving it to them dirt cheap. We should raise that cost to Tidewater. That's just me.

Mayor Newlands: They do pay us around \$5,000 a year for the reading of the meters.

Councilwoman Hudson: Dirt cheap. Right.

Councilman West: Mr. Mayor, you need to go up 102% on them.

Councilwoman Hudson: Yeah, 111%.

Seth Thompson: Are there any other questions for Mr. O'Brien? Thank you.

Mayor Newlands: Thank you. The last one, please.

Seth Thompson: I think you have another one.

- h) Fred Minasian, 120 Village Center Boulevard: My question is to the Town Council. The question of increase in revenue here, now presented to us by Tidewater. When the town sold the plant to Tidewater, it appears to me that knowing that five years hence this sticker shock would be apparent, it appears to me that I think that the question of development was expanding at that time when they did sell it. My question is that if the town had retained the plant, operated it on their own costs to the taxpayers, would this be an increase now in 2012, as opposed to running from the what, five years; all the way up to seven years; or five years? During that time would it be an increase to the public? Do you understand me?

Seth Thompson: I think I understand your question and based on what we heard tonight, they were operating at a net loss; they meaning, Tidewater.

Fred Minasian: The Town?

Seth Thompson: I understand, but...

Councilwoman Duby: Plus the plant needed to be upgraded or they would be fined \$10,000 a day.

Mayor Newlands: It incurred about a \$1.5 million upgrade, when they took over.

Seth Thompson: And they're operating at a net loss, so it would have had to come from the town.

Fred Minasian: That's what I'm saying. During that time, when they sold it, if the increase and the revenue was presented to the town to improve the facility; if all that was factored in, would that be 111% increase? No it would not.

Mayor Newlands: I don't think I could answer that question anyway.

Fred Minasian: Here I'm trying to say that. I'm trying to say that if we retained that...

Councilwoman Duby: I don't think anybody could have answered it even then, because at the time, I wasn't on Council at the time, but I attended all of the meetings and we were told we were being fined \$10,000 a day by DNREC for

the stuff that was going into the river; the plant was not operating the way it was supposed to; we were told we had not enough capacity and so we needed a new sewer plant; so the Town Council was preparing to float a Referendum for \$20 million, a \$20 million loan; to build a new sewer plant. Then the idea of privatization came up and that's when the deal was cut with Tidewater. At the time, I don't know any of this, because I wasn't on Council; I would guess that the people on both sides of the negotiations, Tidewater and the town, saw this real estate boom, they saw Wagamon's, they saw Cannery Village, and they said we're going to lock in the fees or the rates for five years; but by the end of five years, there are going to be so many more people paying into this, that the rates probably will go up a little after five years; but they won't go up that much.

Fred Minasian: But it won't be sticker shock.

Councilwoman Duby: And so none of this was anything anybody could really foresee; that's why I say, who knows where we would be today had we gone that route and now had the recession; we'd still be paying on that \$20 million loan, which would have hiked taxes or sewer bills or whatever up sky high. There's no way. It's all sort of what if this or what if that.

Fred Minasian: We can see that this is an ongoing process that... Just like the gentleman over here said, is that we're continuously paying; we're paying for this; we're paying for that; we're paying for that; and there has to be a point where we have to stop spending; reduce our total costs; and just not expand. We just can't afford... I don't think the town, as a whole... There are a lot of people who do have deep pockets; that's true; but there are a lot of people in this community that don't have any pockets. This is the big problem in Milton. It has existed for years. It's just succinctly the demographics of this community. It is probably necessary for Tidewater to get this increase. That's what they need to operate; it's a cost of doing business. I can understand that. But the cost of doing business on the shoulders of the taxpayers, that's a different situation. I don't know if everybody can continuously keep on paying and if a person could not pay, you're not going to shut his water off?

Councilwoman Duby: I think none of this is unique to Milton. I think it's happening all over the country.

Fred Minasian: True. Exactly.

Councilwoman Duby: And I think that Tidewater, probably, if I tried to put on my sympathetic, empathetic hat, I'm sure Tidewater is facing exactly the situation that we were facing when we voted to increase property taxes. As a public official, you say to yourself, I have all these people, some of whom I know can't absorb this cost increase and yet, those same people need and desire to have the services that we, as a town, provide and it's the same thing at the Federal level. People expect the services that the government provides and yet, don't want to absorb the increases in taxes and all of that. You could argue this. It's a basic public policy argument; but, you know, that's the dilemma you have as a public official. I need to provide services. Revenue is not increasing. We don't have more people paying taxes, etc., in the way that we did for a while when things were growing. So, I understand the frustration. I feel it myself and I feel it in more ways than one.

Fred Minasian: I wonder why a community of this size, 2,500 and some odd people; we have an issue here presented to the Council by representatives of Tidewater and we have a miniscule amount of people; it's just indicative of our plight. It's exactly what you're saying is that the service is going to be provided by the town on the shoulders of those who can pay. Those who do not pay, will still get the service; so that's the ongoing business of this town. Thank you.

Councilwoman Duby: I don't know.

Mayor Newlands: Just to let people know, we're currently paying three cents (\$0.3) a gallon for water and sewer, so we'll be paying six cents (\$0.6) a gallon for sewer, pretty much; because it's doubling and that's what Georgetown and that's what Lewes are paying; so the rates are actually coming in line with the other towns that surround us for the same service.

Fred Minasian: Thank you very much.

Mayor Newlands: Thank you, Sir.

13. b. Discussion and possible vote on the Tidewater Proposed Settlement Agreement of the wastewater rate application (**Continued.../**)

Mayor Newlands: We're going to stay on this subject and just finish off this agenda item and then we'll go back and start over again. Seth is telling me now that if we...

Seth Thompson: I totaled up, basically, the phase in and the concern as I expressed and as the gentleman that came to visit us expressed, the concern is that the phase in comes off the table, if the town decides to object. If you look at the numbers, and that's just assuming that the Public Service Commission takes the Public Advocate's lower; well the agreed upon, at this point, total in terms of revenue, we're looking at the average user, I guess you can consider it saving, over \$900 via the phase in.

Councilwoman Duby: As opposed to if it came in all in one whack.

Mayor Newlands: 100% right away.

Seth Thompson: That's exactly right. So that's not an insignificant sum obviously.

Mayor Newlands: And the fixed amount is less than; I'm told that we get to the fifth year; less than what's in our contract. Is that right? The contract has a \$12.50 increase.

Seth Thompson: For the user rate.

Mayor Newlands: For the user rate. For the fixed rate.

Seth Thompson: And it doesn't reference the volume rate.

Mayor Newlands: And that doesn't come into play until the fifth year when it becomes \$13.20.

Seth Thompson: Right.

Councilwoman Duby: But isn't this the fifth year?

Mayor Newlands: No, this is six through ten.

Seth Thompson: The fifth year of the phase in.

Mayor Newlands: This is year six through ten. The contract refers to the fixed portion of the sewer rate in the years six through ten as increasing \$12.50 from year six on.

Councilwoman Duby: Oh, oh, you're right.

Councilwoman Jones: Mr. Thompson, my issue right now as I sit here is it feels like the old rock and a hard place. That's exactly what it feels like. You're hedging your bets; it could all go up if the settlement isn't agreed upon. It could all go up, rates

could be immediately higher. It doesn't feel like there is any negotiation or wiggle room whatsoever. I state that, not as requiring an answer, just to voice my frustration. I don't know whether anyone else on the Council is feeling that, but to fight it incurs higher legal representation fees for the Town of Milton. It is a rock and a hard place decision, that's why I was hoping a few more people might have had something to say about it.

Seth Thompson: I agree Councilwoman. It's a difficult decision.

Mayor Newlands: The Public Advocate, Howard Woods, he was the one that did suggest a phase in period, so that's the one thing on our side from the Public Advocate, but you're right.

Councilwoman Jones: Recommends, but it's not guaranteed.

Mayor Newlands: Say it again.

Councilwoman Jones: It's recommended in the settlement.

Mayor Newlands: No, no, no. This is what's guaranteed.

Seth Thompson: It's in the settlement, but it came from the Public Advocate's expert. I should clarify.

Councilwoman Duby: So if I understand it, if we agree to this, if we say we accept this, do all of these communities have to agree before it goes? What are we getting by saying we agree; are we getting the terms of that automatically, or does the Commission have to go through a thing where they accept it or not and all of that; or have they agreed to it?

Seth Thompson: The other parties and I hope they'll correct me if I'm wrong, but the other parties; now some communities didn't specifically intervene, if I'm correct there; but all of the parties have agreed to it with the exception of Hart's Landing, which filed a Letter of Non-Objection; so it still has to be accepted by the Public Service Commission.

Mayor Newlands: Nobody's objecting and nobody's contesting it right now. Is that correct?

Seth Thompson: That's correct.

Mayor Newlands: And do we know how many parties have signed off on it, or are we the last?

Seth Thompson: We're the last one.

Councilwoman Duby: It sounds like we're the last.

Mayor Newlands: Okay.

Seth Thompson: And they were kind enough to do that based on the fact that, again, as a town, we need to follow FOIA and we want obviously our citizens to be aware of what's going on.

Councilwoman Jones: This document that you presented, it's not a contract, right? It's just the recommendation and settlement?

Seth Thompson: The Settlement Agreement would be the one that gets filed with the Public Service Commission.

Councilwoman Jones: And just bear with me it's very short, but I find it entertaining, in fact, humorous, one point under Additional Provisions, Item 15: No party to this settlement necessarily agrees or disagrees with the treatment of any particular item, any procedure followed, any calculation made, or the resolution of any particular issue, except that the parties agree the resolution of the issues herein, taken as a whole, result in a just and reasonable rate and is in the public interest. I

can't quite agree to that Mr. Thompson. I don't even see why you would put something foolish like that in.

Seth Thompson: I think that term is designed so that the parties focus on the forest, not the trees. That maybe each individual party has particular arguments with certain provisions, but on the whole, this is a fair agreement. Now certainly we have the ability, we meaning the Council, of which I don't have a vote, but you have the ability to vote in favor of a Letter of Non-Objection. That is an option.

Mayor Newlands: It's a political thing; the Non-Objection is a political thing, where you're not objecting to it, but you're getting stuck with these rates, no matter what.

Councilwoman Jones: And that's how that's written. I mean it's quite entertaining.

Mayor Newlands: Yes.

Councilwoman Duby: My personal feeling on this is that we shouldn't waste a lot of time discussing what our choices are, because I tend to think this is the best deal we're going to get, no matter what; and it doesn't seem to me that wasting money, and I say this as a lawyer, no longer practicing, but wasting money on lawyers fees to litigate it, does us no good whatsoever and we're going to end up in the same place and possibly lose the phase in.

Mayor Newlands: Considering the fact that Tidewater started out asking for 90%, the Public Advocate on our side, recommended 102% and then they came back and the Public Service Commission is now recommending 112%; I think you're right. We're just going to lose.

Councilwoman Duby: Yeah. So if we want to make the somewhat useless stand of saying we'll file a Statement of Non-Objection, I certainly would be willing to vote for that, but I'm just as happy to vote to accept it, because I don't think it makes, as they used to say, a tinker's damns worth of difference.

Mayor Newlands: It's a political statement. That's all it boils down to.

Councilwoman Duby: Yes.

Councilman Lester: It's comforting to note that the Public Advocate is working for us.

Mayor Newlands: Yes. He's working, whether he's working for us or not, he's working.

Councilwoman Duby: As he said, he's working for it to be equitable for everybody, not equal, but equitable.

Councilwoman Jones: I can't help but not to leave this out. I worry about the impact. Milton is becoming an extremely exclusive, expensive place to live. I may not be a fixed income, but I'm a one income, and that's as close to a fixed income as you can get.

Councilwoman Duby: Mr. Mayor, I move that we respond to this Settlement Agreement with a vote of No Objection to it.

Seth Thompson: Would that be authorizing, either the Mayor or maybe myself, to file a letter with the Public Service Commission?

Councilwoman Duby: That would indeed, Mr. Thompson.

Councilman Lester: Well I'll second that.

Mayor Newlands: Okay, we have a motion and a second to vote for a Non-Objection Letter to be sent by our Town Solicitor. We'll take a roll call vote:

Councilman Lester

Yes

Councilwoman Jones	Yes
Councilwoman DUBY	Yes
Councilwoman Hudson	Yes
Councilman West	Yes, with an objection
Councilwoman Betts	Recusing herself in regards to Tidewater
Mayor Newlands	Yes

Mayor Newlands: Motion is carried.

8. Presentation and Approval of Minutes – January 24, 2012 and February 6, 2012

Mayor Newlands: Let's go back to Item 8 on the agenda, which is the presentation of the Minutes and we'll continue with our meeting.

Seth Thompson: Mr. Mayor, I guess if we could have the Public Advocate, they're certainly free to go at this point.

Mayor Newlands: Thank you. Okay we have minutes from January 24th and February 6th and again this is 2012, sorry about that. Are there any issues or problems with the minutes?

Councilwoman Jones: This set for February 6th, but I want to let everybody go on the 24th, is everybody good on those, yet; before I go to February 6th. I just had a real quick question about the notes made at the bottom of the minutes that this is a summation of the minutes. If you were to put a FOIA request in to town, what would you get besides these?

Robin Davis: I think if you wanted a disc.

Seth Thompson: Oh, the recording.

Mayor Newlands: If you wanted the disc instead.

Councilwoman Jones: An official copy of the minutes, it just made me wonder. On Page 24, about a quarter of the way down; Mr. Abbott: Okay, but I'm sorry I'm still not really following you. It should break there and it is my comment that says: "As you had indicated since 2007, there seems to be a difference in the amount of water pumped as recorded at our wells, as to that which is billed." And I was referencing Mr. Abbott's Memorandum which I received on the 6th, which I made that comment and then Mr. Abbott made the comment: "Right."

Mayor Newlands: Okay. Is that it, anything else?

Councilwoman Jones: I think I have something else. Will there be time to talk about the difference between the minutes here. I'm looking at Page 37, that deals with the voting issue on the Referendum. Will we have time to talk about that at another time? Alright, it's in the minutes.

Mayor Newlands: I don't know what you're saying.

Councilwoman Jones: Well, during the last meeting we learned that due to a Supreme Court ruling that both property owners and tenants may be able to vote in the Referendum.

Mayor Newlands: Correct.

Councilwoman Jones: In the minutes on Page 37, we talk about that, but Seth says, well the way the Charter is written, it is limited to property owners and voting in the Referendum; so I'm asking you, has that been decided?

Seth Thompson: Councilwoman, I sent a letter to Mr. Abbott; I pulled the Supreme

Court case; it's Cipriano vs. the City of Yuma, that stands for the proposition that if you have a resident, non-property owner, they're entitled to vote in a Referendum for something like a water tower; a utility based referendum. So what we'll end up having is resident's voting, as well as non-resident property owners; and some people, for instance, property owners that are residents, they vote, obviously, as well. But...

Councilwoman Duby: And with only one vote.

Seth Thompson: Well, the way it is written, if you are a resident, if there is a husband and a wife, each one is entitled to a vote as a resident, but if a husband and wife are non-resident property owners, that property is going to get one vote. Just like if there were a three person LLC, all three don't get to vote as a non-resident property owner; the LLC would get one vote. And the way the Charter reads, if that LLC owns two properties, they still only get one vote.

Councilwoman Jones: So if the Supreme Court ruling trumps our Charter, is our Charter out of date and will that then have to be changed and included; or is it something just exclusive to this? I've heard a lot about the renters or non-property owners voting in this Referendum; so if this was the only time we had to discuss it, I wondered if we could and come to that final decision.

Mayor Newlands: Yeah, we can discuss that when we talk about the Referendum.

Councilwoman Jones: Okay. That's why I asked.

Mayor Newlands: Because right now let's get the minutes cleared up and things. Because I just want to make sure that the minutes reflect what happened during the meeting, that's all. So right now we just have a change on Page 24, is that it? Okay, cool. Can we get approval on the minutes with the one change on Page 24 of the February 6th minutes? Will somebody make a motion.

Councilwoman Duby: I move that the February 6th minutes are approved, as amended.

Mayor Newlands: And what about January 24th?

Councilwoman Duby: I'm not going to make a motion on that, because I wasn't here, so I don't feel like I can.

Mayor Newlands: Okay.

Councilwoman Duby: Somebody else will have to do that.

Seth Thompson: You have one motion?

Mayor Newlands: Yes, we only have one on the February 6th minutes?

Seth Thompson: Right, so you'll have to do it in two parts.

Mayor Newlands: Can I have a second on that motion?

Councilman West: I'll second that motion.

Mayor Newlands: We have a motion and a second to approve the minutes of February 6, 2012, as amended on Page 24. All in favor say aye. Opposed. Motion is carried. And can we get a motion on the January 24, 2012 minutes?

Councilman West: Mr. Mayor, I make a motion that we accept the January 24, 2012 minutes.

Councilman Lester: Second.

Mayor Newlands: We have a motion and a second to approve the minutes of and January 24, 2012 minutes. All in favor say aye. Opposed. Motion is carried.

9. Discussion on Written Committee Reports

Mayor Newlands: We have Historic Preservation Committee. We just have one committee report. Does anybody have any questions? Okay, let's go on to the Town

Manager's report.

10. Town Manager's Report

Win Abbott: Yes good evening Mr. Mayor and Town Council and the public. Most of you should have received a copy of the Town Manager's Report for February, 2012. They were available at the front table. If you didn't, please share with your neighbors or you're welcome to stop by the Town Hall. I print out 25 each month. I want to again thank the Garden Club for making such an investment in the town; nearly \$10,000 worth of irrigation equipment and we look forward to working with them to help keep the town looking beautiful. The St. Patrick's Day Parade is going to be on Sunday, March 11th; not St. Patrick's Day, the 17th. We look forward to seeing everybody out to support our Volunteer Fire Department Training Program, Best Buddies Delaware and Casa San Francisco. Everybody who received a property tax bill, also received an insert which was a statement as to whether or not you were renting your property. These are to make sure that everybody's treated fairly and they're for everybody to turn back in, indicating whether or not you actually rent. If you don't rent, it's not an issue, just check off the box and send it on back in, as well. I did just today receive a report from our assessor regarding the property tax appeals that occurred in January; however, for the benefit of all, I've put in the Town Manager Report, basically the definition which makes a difference between assessed values vs. appraised values. We have to remember that when the assessor set a value for the purposes of taxation, it was based upon 2008 values and although the market has changed at that time, they're using the same yardstick as a measurement for all properties. As we continue on, even as people build porches or additions and various other things, those things are valued at 2008 levels. You'll find that Council, a little bit later on, is going to be taking a look at an investment in water meter upgrades for those homes that do not have the most current and accurate version of our water meters. These gentlemen to my right here, went through the practice of setting up a side by side test of the new modern water meters, with one of the older water meters, and we found that at the normal flow rates, the old ones are missing 11% of what goes through there and at a very slow, or low flow rates, they miss almost everything that goes through; like for example, one toilet flush can be missed altogether. This is a first and significant step towards recovering what we've come to refer to as the missing water. These are the highlights from the Town Manager's Report this month. Thank you very much.

Mayor Newlands: Thank you.

11. Department Reports: Public Works, Project Coordinator, Code and Police

Councilwoman Jones: I have a question under the Code Enforcement, but it's for the Code Enforcement Department.

Mayor Newlands: Which page?

Councilwoman Jones: It's not on this page, it's a question, while we're here.

Mayor Newlands: Okay, sure.

Councilwoman Jones: I know that you're looking at some of the leftover funds from some of the paving projects and where to do a little bit more. The spot in the back behind Irish Eyes and behind Mr. Jones' property, there's that small bit of paved parking back there. It's also the entrance on to one of one of your entrance ways onto Governor's Walk, there's a lot of public traffic – who owns that property and is there

anything that can be done to have that maintained. That's in terrible shape back there. I'm guessing it's not the town's.

Mayor Newlands: Well part of it is Wharf Alley, we just learned the name of it. It's called Wharf Alley.

Councilwoman Jones: Okay.

Mayor Newlands: I don't know how far back Howard Street goes. If you look on some of the maps, it's not even listed on some of the maps.

Councilwoman Jones: Okay, because it runs right up to the edge of the street and it's basically the parking lot that they use behind Irish Eyes; but I don't know who claims ownership of it.

Mayor Newlands: They own a portion of it. I'm not sure how far though.

Councilwoman Jones: It has holes big enough to suck a car in now.

Mayor Newlands: Okay.

Councilwoman Jones: But I look at it more from a beauty point, that it is a main entrance into the Governor's Walk right there at the end of that street.

Mayor Newlands: Well, actually, it's not Code, it's Allen's group that will take care of that. Do you have any more cold patch that we just...

Allen Atkins: It's not a town street.

Councilwoman Jones: That's what I'm asking. I don't know.

Allen Atkins: That area there is I believe owned by Mr. Jones. That is not town property.

Councilwoman Jones: Right, that's what I'm saying. It's not the town's.

Allen Atkins: That is not town property.

Mayor Newlands: Then it would be Code then, okay.

Councilwoman Jones: But it is in bad shape; not just newly bad shape.

Mayor Newlands: Okay, we'll talk to Mr. Jones.

Councilman Lester: I have a question on that because some years ago when Allen and I were going through the assets, there shows up an easement back there; the town paid for an easement, so do we have the right? I'm not sure how far that easement runs or where it runs, but there's a \$12,000 payment for an easement back there.

Seth Thompson: If there is an easement, we just have to see the extent of it, if it covers paving. It could be a utility easement, which doesn't do us much good when it comes to paving, but we just have to check the scope of the easement; if it covers that area and if it covers paving.

Councilman Lester: Do you think we can find the paperwork?

Seth Thompson: I would hope so. I think there should be a survey.

Robin Davis: Yes, we do have an easement for the sidewalk that goes back there; that ties into the sidewalk that runs between 107 and 109 Union. I think it's only to cover the grass area though; I do not think it covers the paving portion.

Mayor Newlands: You're talking about in between Irish Eyes and...

Robin Davis: The sidewalk that Councilwoman Jones is talking about, I think, runs along the parking area behind Irish Eyes. That sidewalk ties into the sidewalk in Governor's Walk that runs between the two properties of 107 and 109. You're talking about the parking lot area.

Councilwoman Jones: Yeah, I'm talking that there's the brick start of the Governor's Walk right here, right there at the end of the street and to the left, as I'm facing the pond, there's a strip or parking lot of gravel and some patch that is in terrible disrepair.

Robin Davis: That's behind Mr. Jones' and Irish Eyes property.

Councilwoman Jones: Okay, is it a Code issue to have it brought up to... I'm even talking safety. Because it's very dark back there. If you were to fall into one of those holes, I believe you could hurt yourself.

Robin Davis: Yes, if there are holes there and there's a problem with the parking area, that needs to be paved or filled in, yes, it would be a Code issue, if it doesn't belong to the town.

Councilwoman Jones: I want to bring that to your attention. Thank you.

Mayor Newlands: We'll make sure Craig gets over there.

Vice Mayor Betts: A correction on the number of permits. I think it's just a typographical error. The total permits that were issued. It should be six.

Mayor Newlands: Six, yes. It should be six.

Vice Mayor Betts: Seven they have.

Mayor Newlands: And if you look at the Code there is some activity on Sam Lucas for Key Ventures, so we're meeting with a builder tomorrow; so we'll get more information out. We just started getting some information. Eight acres may be going under contract, which is not much. Okay, we'll go on to the finance report. Are there any other questions on the Code or Project or Police Reports?

12. Finance Report and Revenue/Expenditures Report

Councilman Lester: A couple of things. I guess about two or three months ago, we discovered we owned some Prudential Financial stock and the Council voted to sell that stock and I think the next morning the share price dropped like a stone. Fortunately, it came back a few days ago and I exercised the sale order and we received a check a couple of days ago for \$6,033 and some cents. That was an asset we owned, but was never on the books and I think it was just by sheer luck that Mrs. Rogers found a letter from Prudential about stock. We've been collecting dividends over the years, but nobody wondered why we didn't have it as an asset. Anyway we sold it and we collected \$6,000. I've had several attempts to have conversations with the auditor's office, Tom Wagner's office and I did manage to speak to somebody today at his office and she assured me that they are working diligently on this audit. I told her that a lot of people are concerned about it and we want to see it come to a conclusion and she assured me that they will be in town very soon to gather more data, so I just have to assume they know what they're doing and doing it diligently. She said they've had problems with staff shortages. There's not much we can do to push that, but I have been calling and letting them know we're waiting on them. I looked over the budget with town staff and the financials and it looks like we're on target for this month. If anybody has any questions on Council right now, I hope I can answer them.

Vice Mayor Betts: Mr. Lester, on the money market from December to January, it went from \$144,223 to \$44,251. Could you explain?

Councilman Lester: Yeah there was a...

Mayor Newlands: If you look at the second page, there's two transfers of \$50,000 each on the money market account to the general account, the checking account.

Vice Mayor Betts: Is that just for operations?

Mayor Newlands: Just operating expenses, yes.

Vice Mayor Betts: Operating expenses.

Mayor Newlands: Yes.

Councilman Lester: That will improve when the real estate taxes start rolling in.

Vice Mayor Betts: That's what I wanted to know.

Mayor Newlands: Yes, tax bills went out. We've probably got in a little over \$100,000 so far, out of the \$800,000 we should be getting in for taxes.

Vice Mayor Betts: Okay, thank you.

Mayor Newlands: Then we'll be doing the reverse. We'll be putting money back into the money market account to collect a little bit of interest and then...

Vice Mayor Betts: But I just was interested if it had gone for general expenses.

Mayor Newlands: Yes.

Councilwoman Duby: I have a question, but it relates to the Town Manager's financial report. Is this the time to ask that or are we doing that next?

Mayor Newlands: Yes. You can do that now.

Councilwoman Duby: Mr. Abbott, you say under the paragraph that says the effective changes in reporting methods. We've switched from an accrual basis to a cash basis and then in the next paragraph you say the accrual method of accounting is the preferred method for governments. Why have we changed, if this is not the preferred method?

Win Abbott: That was a decision on the part of Council. I'm just reporting the facts.

Councilwoman Duby: Well, I'm assuming that Mr. Lester's is probably the one to answer this question, but...

Mayor Newlands: I was the one that originally asked to have it changed, because these reports that come out always show, like for property tax, it would have shown that we took in \$800,000 already for property tax; when in fact we took in \$100,000.

Councilwoman Duby: Yeah, and I remember the discussion about that. What I didn't know at the time we had that discussion, was that the preferred method for governments is the accrual method.

Mayor Newlands: I didn't know that either.

Councilwoman Duby: So I'm just wondering if we made a mistake in doing this.

Councilman Lester: No, actually what will occur at the end of the year, the Financial Statements will be adjusted to the accrual basis to reflect the actual activity at the year end and prove it. Cash basis just tells you, today I received X number of dollars; and today I spent X dollars. The accrual basis says as of today you owe me \$800,000 and I have yet to receive it, but it shows it as income and on the other side, it says, I owe you \$200,000 and I show that expense, but I haven't paid it yet.

Mayor Newlands: What will happen is this Revenue and Expenditure Report would have shown we took in \$800,000 in property tax money and then Ms. Betts will be asking me where did it go; because it's not in the bank account. This at least makes everything...

Councilwoman Duby: Is it legitimate methodology and something that's not going to screw us up in some way for us to operate on a cash basis and then at the end of the year, convert it as you're talking about?

Councilman Lester: For simplicity, for budgeting purposes, it makes it easy to understand how much we've spent. Although when something is encumbered, if there are expenses to be incurred that would be charged to the budget, it's reflected as though it were an expense, but it hasn't been paid yet.

Mayor Newlands: Those aren't as great as the property tax and the water income.

Councilwoman Duby: Okay, thank you.

Councilwoman Jones: Just a couple of concerns. I'm looking at the Treasurer's Affidavit and this is for a four month reporting period, because this ended on the 31st of January, correct?

Councilman Lester: Yes.

Councilwoman Jones: Okay. Under Police on Page 4, making sure that I understand this, overtime is already at 47%.

Mayor Newlands: Uh-huh.

Councilwoman Jones: Okay. Holiday overtime is at 60% of it's 100%; printing and postage is at 87%; and I would say from the figures Training and Seminars are already in arrears.

Mayor Newlands: Training and Seminars.

Councilwoman Jones: 5180.

Mayor Newlands: Right, Training is... We cut that, don't forget, from \$10,000 to...

Councilwoman Jones: I understand that, but it's already in arrears four months in.

Mayor Newlands: Yes and we had two expenses; we have ammunition which is \$2,300 and the firing range is \$1,500.

Councilman Lester: Actually that's \$3,500.

Councilwoman Jones: Right.

Mayor Newlands: So that gets eaten up real fast with two items and they're getting me a list of what other COPT Training they need for the rest of the year.

Councilman Lester: Just to get back to the encumbered expense, part of this, I think about \$3,500 for ammunition in there and that bill hasn't been paid, because there may be some more ammunition that (oops, Chief's gone); but that's an encumbered bill and has yet to be paid.

Mayor Newlands: Right.

Councilwoman Jones: Okay, well the system shows it's been paid and it shows it's in arrears already and I'm concerned as to these numbers. We were told overtime would be down because we had people now in those positions.

Mayor Newlands: That's right.

Councilwoman Jones: But it's already at 47% with only four months reporting. That's not down, is it?

Mayor Newlands: It will be on a grand total for the year, it will be.

Councilwoman Jones: Okay.

Mayor Newlands: Two weeks ago we had 5 hours overtime in the Police Department for a two week period of time. So that's cutting down dramatically. The holiday, I think we have four holidays left out of twelve. They don't run monthly percentage wise.

Councilwoman Jones: Oh, I understand they don't run monthly, but you're still at 60% of holiday pay out of 100% that was budgeted.

Mayor Newlands: Right we had more holidays in the first part of the year then we do later on in the year. Don't forget you have Thanksgiving, which is two days of holidays; Christmas is a day and a half; New Year's; you get front loaded with a lot of the holidays in that part of the year, so this was calculated out to show how many holidays we had throughout the year, based on so many officers, based on so many hours. So, you have fewer holidays coming up; you only have three more holidays coming up, I think, now. You have Memorial Day, July 4th, Labor Day, so you have four out of 11. We've already had six.

Councilwoman Jones: Did you count Good Friday?

Mayor Newlands: No. Okay.

Councilwoman Jones: On this sheet, the audit trail, just maybe it's housekeeping and since Mr. Lester's here beside me, I'm on Page 8 and under Miscellaneous Expenses for the Police, 5420, there's an EZ Pass issue and EZ Pass, each worth \$25; but then the EZ Pass comes down here and begins to be in the Repair and Maintenance under auto. Is that just a little housekeeping, or what could you tell me.

Councilman Lester: I think that's just housekeeping. It got slipped into the wrong place.

Councilwoman Jones: Okay. So I can just bring that to your attention?

Councilman Lester: Yeah, we'll move that. And I might just jump on that Printing and Postage; I think we covered it last time. There was a prepayment by the Police Department for his meter.

Mayor Newlands: Right, he prepaid his meter.

Councilwoman Jones: There was. And I noted that the last time. I asked about it, but now it's at 87%, so can they carry that many more months with what they've loaded on their meter?

Mayor Newlands: Yes.

Councilwoman Jones: Okay.

Councilman Lester: Yes, he said he can, he being the Police Chief.

Councilwoman Jones: Okay and then the question on the Town Manager's monthly financial report, and please help me make sure I'm reading this correctly. On the back of the page, department level comparisons; administration looks good; streets, general looks good; but we're over at this time of the year, that's all we're talking by comparison, right; we're over in Code and Police and a very small amount in Parks; as to how it operated last year? I want to make sure I'm reading this correctly.

Mayor Newlands: We had less staff last year, yes. We didn't have a Code Enforcer at this time last year.

Councilwoman Jones: Okay.

Mayor Newlands: So the comparison is money spent. Correct?

Win Abbott: Mr. Mayor, Madame Councilwoman, you'll notice under department level comparisons the first table that you looked at are expenses; the second table you look at are revenues; and for example, you'll note in the Code Department that \$22,963.76 more was expended in that department. As the Mayor had indicated, this is the difference due to salary; however, under Code Enforcement Department, \$86,510.18 more revenue was brought in; so the next difference here is approximately \$60,000 in additional revenue for that department.

Councilwoman Jones: Okay.

Win Abbott: So in order to do a critique of departmental performance, you would have to take the difference in expense vs. the difference in revenue together in order to do that. The purpose of this was to simply lay out in a table, the prior year's performance vs. this year's performance and not to get tied up in all the details of specific expenses or revenue types.

Councilwoman Jones: Thank you.

Mayor Newlands: Okay, does anybody else have any questions on the finances? Okay, let's move on to the water tower referendum.

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

a. Water Tower Referendum Language

Mayor Newlands: We gave out the ballot today. This was given out late because of the public meetings we had during the week. One thing that the Health and Social Services Group in the State asked us not to do was to put a rate on the actual ballot, because that could lock us into something that is unattainable and they may come along at one point and say if we locked it in to 2% over 30 years, they could come along and say instead of giving us 35% forgiveness at 1%, they may come along and say you're going to get 80% forgiveness at 3% of the 20% that's remaining and if we had a rate locked in, we wouldn't get any loan. Okay, so what we came up with was capping the dollar amount we can spend. Capping the amount of money that we can spend for each year on the loan and that becomes neutral to the amount of money for the interest rates and terms of the loan; because this really just says how much we can pay back every year. Do you want to go over this, Win, because you spoke to Heather correct? And she's reiterated the rates for us; it's on the second sheet of paper.

Win Abbott: Yes, Sir. The rate current, this week, is 1%.

Mayor Newlands: And she's still offering 35% principal forgiveness, correct?

Win Abbott: Yes.

Mayor Newlands: Okay.

Councilwoman Hudson: Can I ask a question?

Mayor Newlands: Of course.

Councilwoman Hudson: Thank you. On the paper that says Municipal Referendum, the one with all the explanation, not the ballot; in Number 3, in big dark letters Maximum Amount of Annual Debt Service; you've got \$200,000. Down at the bottom of the page, it says \$86,615 in annual debt service payments.

Mayor Newlands: That's at today's offer, so this offer from the State could change.

Councilwoman Hudson: Which is it?

Mayor Newlands: When we go to close on this loan, the offer could change; so we just put some flexibility in there, just in case.

Councilwoman Hudson: It's quite a bit of flexibility between \$86,000 and \$200,000.

Mayor Newlands: Well if you remember from Scott Hoffman's presentation, he had no forgiveness on one of the loans and 1-1/2% and that came up to \$143,000.

Councilwoman Hudson: But one thing that I noticed has not changed, is the \$3.45 million; that has not changed, so how could you have such a wide fluctuation in annual debt service payments if the total amount you are borrowing has not changed.

Mayor Newlands: Because the forgiveness amount and the interest could change.

Councilwoman Hudson: The forgiveness and the interest could change.

Mayor Newlands: Right, so right now they're offering us 35% forgiveness with a 1% rate; that could change to 0% forgiveness and 1-1/2% interest and that will bring us up to \$143,000. They could also give us 80% forgiveness and a

3% rate on the 20%, which I can't do that math in my head. So what they asked us to do is not lock in the rate, because if we lock in the rate on the Referendum and that's what gets passed, and they come up with a different calculation or a different rate, we could lose the loan.

Councilwoman Hudson: Thank you.

Mayor Newlands: I know the public wanted something in there to cap, so we're capping the amount we can spend; and if we want to bring that down a little lower, we can do that.

Councilwoman Jones: Mr. Mayor, so premium, which is the 1%/35% forgiveness, we pretty much use that \$86,615 when we calculated that broad spectrum of \$6 to \$12; so this \$200,000 goes even a little bit higher; would the availability rate would then be commensurate with the new rate of payback; so it could be a varying figure if you use number three, the \$200,000 per year, cap it.

Mayor Newlands: What do you mean a varying figure?

Councilwoman Jones: If we're not paying back \$86,615 a year, but we're paying back \$200,000 per year, principal and interest; the availability rate, which was quoted to the public between the 6% and the 12% will surely change.

Mayor Newlands: Yes.

Councilwoman Jones: Thank you.

Mayor Newlands: Did you want to add something?

Win Abbott: Yes. Just for clarification purposes. The scenarios that our Town Engineer presented to the Council and the public were just that; they were scenarios and according to our Charter language, the Council will be the ones determining what the fee rate increase, whatever the case might be, is. So, you may adopt exactly what our Town Engineer had suggested; with that particular structure changing the flat quarterly fee at an amount commensurate with what was necessary for the debt service; changing the impact fees; increasing them 2% a year and so on. Or the Council may decide to do something altogether different. You may choose, of your own volition, to not change the quarterly flat fee, but to increase the rate component of the fee in a different way. So I wouldn't marry myself to exactly what that is, because that's another thing that the Town Council has the option to determine after the Referendum, has passed or failed; but if it passes, that's the time when you sit down with the engineer and say we want to look at a different formula for this. We want to shift more of the cost to the high usage persons and diminish the impact that that may have on people who are using the minimal amount by not increasing their flat, quarterly access fee as much. These are all options that Council can consider as a form of pay back.

Mayor Newlands: We could add a half a penny to the water rate and that way it's by usage, as opposed to flat fee, and that may cover it. Some of the new meters we're going to put in will increase some of our revenue, as well.

Councilwoman Jones: But this is, at least for as long as I've sat here, this is the first time we've talked about increasing the water rate. The only thing we've talked about is increasing the availability rate; that's all we've talked about.

Mayor Newlands: That is pure examples, and this is what Scott has said, he's

said these are examples and there are other ways to fund this that he hasn't talked about with Council yet. The other way of funding it, is splitting it; is literally having part of it come out of the water rate that we get, and some of it come out of the flat rate we get. There's a number of ways to do that once we know what the number is and we have a year and a half, probably, to make that decision. We'll know what our loan rate will be in a short while and we can determine how we're going to pay for that a year and a half from now. Meaning whether it's going to be out of the flat component, or it's going to be out of the usage rate.

Councilwoman Jones: Not only how, but if.

Mayor Newlands: I'm just saying, if this passes, okay.

Councilwoman Duby: If it goes down, we won't be talking about it.

Councilwoman Jones: Right.

Councilwoman Duby: You all won't be talking about it.

Mayor Newlands: If this passes and we go back on a ready list and we get the money allocated to us and we go to closing and then construction doesn't start for I don't know, 6 or 8 months; and then we start drawing on it. We don't start drawing on it, until what, 2014?

Win Abbott: You'll be making draws during the whole period of construction, but you won't start your pay back until approximately two years after the project begins, so if for example, another municipality that is on the ready list right now doesn't meet their performance objectives and they get by passed and Milton gets put back up on top of the list, we may even be able to begin construction during the year 2012. If not, however, we might be looking at beginning construction in the spring of 2013; thereby payback doesn't begin until the spring of 2015.

Mayor Newlands: So we have that much time to determine where the money is going to come from.

Councilwoman Jones: Again, the many times we've heard Mr. Hoffman talk, it's just been about the increase in availability and now I see figures that make me nervous, only because here we are, right on the heels of the Referendum and I, myself, I know one of the things I wanted Mr. Hoffman to consider and that was whether or not the Town of Milton could sustain with what we have, plus growth, if we put up a smaller tower for less money; but I don't see any of those options are not going to make it to referendum. There were a lot of things talked about. I know different systems were talked about; but definitely the size of the tower was talked about and I can see from what's printed here that we're still at that 500,000 gallon number; so that was reducing the size of the tower was not a consideration to Mr. Hoffman.

Mayor Newlands: We don't have to do that at this time. The size of the tank does not have to be decided at this time. If we decide to make the tank a 300,000 gallon tank, and it will reduce the cost by probably \$375,000, I think that's what he said, we can make that decision later. This process has to go in order and the referendum has to come next. We get the offer back from the Department of Health and Social Services and then we close on the loan and then design goes on for the rest of the project. This is to get us back on the ready list so that the money is available; so that we can get money when it

becomes available. You can lower the \$200,000 down to \$150,000, if you want; if it makes you more comfortable.

Councilwoman Hudson: Well the slide presentation had like \$143,000.

Mayor Newlands: So I'm saying we can lower this down to \$150,000 and that will be fine.

Councilwoman Hudson: We've been telling people between \$86,000 and \$143,000, so I mean, this almost might hurt the referendum to put a number there that nobody has talked about before.

Mayor Newlands: Okay, that's fine. So do you want to knock this down to \$150,000 to make it a round number?

Councilwoman Hudson: Yeah.

Mayor Newlands: Okay. So, again, we put this in so that the public knows we have a cap, so whatever the loan comes out to be, when it comes down to payment time, we'll know that the payment can't exceed \$150,000. If we're presented with anything that's higher than \$150,000 payment, we're not accepting it. Are there any other changes to the ballot? The language?

Win Abbott: Mr. Mayor, I didn't think that copies of this proposed ballot were made available to the public; would you like for myself or Mr. Thompson to read the language off so that...

Mayor Newlands: Sure.

Seth Thompson: If you want to go ahead, Mr. Abbott, they've probably heard enough of me talking tonight.

Win Abbott: Very well. For the public, what we have here is a suggested ballot. Of course, if you went to the voting booths this past weekend, you might have seen an electronic version of that, within the electronic voting machine; it would be very similar in appearance, however, this paper ballot with the word "Absentee" in front of the word ballot, would be what people receive in the mail if they could not be here for the weekend of the Referendum. Now there are certain requirements within the Town of Milton Charter, which says that you have to define what the purpose of the funding is going to be and where you're going to be getting the funding from. Strictly following that, I'm going to read what the Council has before them, so you can understand what it is that they're talking about. It says:

"In accordance with Section 33 of the Town of Milton Charter, the Town Council may borrow money to provide funds for the erection, extension, enlargement, purchase, or repair of any plant... [That means I'm skipping by some words here. Those words in the Charter refer to electrical upgrades, streets and so on. Then I go to this particular purpose.] for the furnishing of water to the public. The borrowing of money shall have been authorized for the Town Council by a Referendum of eligible voters. On February 6, 2012, a Resolution of Council set the time and date of this Referendum to authorize the borrowing of funds for water system improvements.

Purpose and Terms: The purpose of the loan is to make improvements to the Town of Milton water system. Such improvements include a new storage tank [It does not specify the number of gallons.]; water supply wells; treatment

facilities; distribution system improvements and the acquisition of land required for the same.

The maximum amount to be borrowed for these improvements is \$3,450,000. The source of funding is the State of Delaware Drinking Water State Revolving Fund (“DWSRF”). The maximum amount of annual debt service for principal and interest will be \$150,000 per year [Which is the language they reference with regard to debt service.].

So the first box to check:

I approve the measure for the Town of Milton to borrow money for the purpose of the water system improvements detailed above.

And the last item is:

I disapprove the measure for the Town of Milton to borrow money for the purpose of the water system improvements detailed above.”

This is what the Council has before them.

Councilwoman Jones: I have a question, please. On Purpose and Terms, such improvements include, all those things which we have heard. It also includes the acquisition of land and I've asked this before; if the \$3.45 million includes the purchase of land and I do not feel like I've gotten a clear sense that it does; otherwise, are we asking the citizens of Milton to authorize the purchase of land in addition to?

Mayor Newlands: The purchase of land will come out of the \$3.45 million.

Councilwoman Jones: That's the first time I've heard that. Thank you.

Councilman Lester: There's an item of miscellaneous expenses and I think that's probably where the acquisition of land will come from.

Mayor Newlands: Excuse me.

Councilman Lester: There's an item of miscellaneous expense...

Mayor Newlands: Oh, on the schedule that Scott wrote, yes.

Councilman Lester: Yes.

Win Abbott: I can add this, as well. Another item on our agenda for this evening, is authorization necessary to upgrade the meters for homes and businesses that have our old meters; that is an eligible expense under this particular program, as well. Now, I would not delay in starting our upgrades to the meters. If, however, we got to the point where we knew the start point for this particular project, we could add our meters in so they can be financed at these great rates over the next 30 years, instead of having to pay them out of current revenues in the Water Department. Just a little added bonus there for you.

Councilwoman Hudson: Will engineering fees be taken out of the \$3.45?

Mayor Newlands: Everything will be taken out of the \$3.45. We have \$15,000 budgeted this year for engineering fees; that's to get this project started.

Councilwoman Hudson: Okay and will this ballot be changed to \$150,000,

instead of \$200,000?

Mayor Newlands: Yes it will.

Councilwoman Hudson: Okay.

Councilman Lester: Do we have to approve this wording, or is this...

Mayor Newlands: Yes.

Councilwoman Duby: Mr. Mayor, I move that we approve the ballot language as read.

Councilman Lester: Second.

Mayor Newlands: We have a motion and a second to approve the Referendum ballot language, as read. We'll do a roll call:

Councilman Lester	Yes
Councilwoman Jones	Yes
Councilwoman Duby	Yes
Councilwoman Hudson	Yes
Councilman West	Yes
Councilwoman Betts	Yes
Mayor Newlands	Yes

Mayor Newlands: Motion is carried. Thank you.

c. Purchase of Radio Read Meters for 80 homes, plus others

Mayor Newlands: We say plus others, because there's a number of buildings that don't have meters that need to get metered. The 80 residents we reference; the Water Ordinance was changed probably two year's ago but never codified and now it's properly in place so that we can execute on that Ordinance. So, we have about 80 homes who have water meters in their basement, where the owners will not let us into the basement to change the water meters; so the Ordinance right now, the new ordinance, says that if they don't let us into the house, we can put a pit and meter in the front lawn and we charge them for that, right? It will cost them about \$1,500, so the choice is to let us come into the house and change the meter for free; or we'll put a meter in your lawn with a pit and charge you \$1,500 for it. So it's a simple little decision that 80 people have to make and in your package there's a list of the 80 addresses that have to get changed. Mr. Abbott or Mr. Atkins want to go over this chart? They broke down all the different – we did this a year and a half ago. Was it Milton Landing that we did? It was Milton Landing and Park Royal, so two summers ago we approved extra money coming out of the budget in the summertime, off cycle from the budget, because we had meters we couldn't read; so this is just really a follow up to the rest of that project.

Allen Atkins: Basically there are 16 meters in homes that do not read at all; which we cannot read. The biggest thing is, we got 16 meters that do not get read at all. Our biggest problem has been, we've sent letters out like over a year ago to get in like 80 or 90 some homes and we got very little response and part of these meters, we did get readings off of, but they're in the older homes and the biggest problem is getting the people to let us into the houses. We also have 2" and 3" meters that are manually read; we have 22 at the one on Bay Avenue,

which need to be replaced; and we have 2 3" meters that need to be replaced; about 5" meters, manual read, which are with pits; we've got 13 that need to be replaced, they have bad pits also.

Mayor Newlands: Why weren't those done as part of original project back in 2008 or 2007?

Allen Atkins: 2008 and 2007, well we've worked on them from time to time, when they started building houses back then; we had enough meters to do the numbers we had that the meters went out to the new homes; so we just didn't get these recycled back into our money.

Mayor Newlands: Okay.

Allen Atkins: It's basically, Win has it basically, a step-down bonnet in months, instead of it you go by the list; if we can do as much as we can to get them in hopefully this year to get them all in.

Councilman West: Mr. Mayor, I would like to make the motion to budget the \$70,000 from the Water Department Proprietary Account, for the purpose of upgrading the meters in the town, as indicated on the water use accounting plan of work beginning this month and concluded no later than March, 2013.

Councilman Lester: I second that.

Mayor Newlands: Okay, we have a motion and a second. Is there any discussion?

Councilwoman Jones: How are we going to pay for it? That's my only question. It's my only question. This wasn't budgeted for this many meters, but can you just give me a sense.

Mayor Newlands: If you go back to your balances, the Water Department has money in their accounts; they probably have \$600,000 or \$700,000 on account and we generally get the cost of these paid back within three to five quarters.

Councilwoman Jones: Do you feel good about recouping the money in case you have to actually put pits in some of these locations? I know you would cut the water off. Is that usually how you recoup that installation money too.

Mayor Newlands: Yes.

Councilwoman Jones: Is that how it works?

Mayor Newlands: Well on the \$1,300 if we have to put a pit in; we're hoping we don't have to do that at all; because that's going to really hit some people that probably can't afford it, so it just behooves them to let us in the house.

We're not looking to put any pits in; we prefer to change them in the house.

Councilwoman Jones: Okay, so you're not looking for a great deal of extra expense that way.

Mayor Newlands: No, we're not looking to make money.

Councilwoman Jones: No, I mean the expense to the town to have to do the pits for those people who won't let you in.

Mayor Newlands: Yeah, I'm hoping we don't have to do any.

Councilwoman Jones: Okay.

Mayor Newlands: Okay, so we have a motion and a second to expend \$70,000 for meters; these are upgrades and new installations of meters. Any further discussion? All in favor say aye. Opposed. Motion is carried.

- d. Second reading of an ordinance to amend the Town Code, Chapter 26, Section

6 “Recruitment, Appointments and Promotions” to include Equal Employment Opportunity language

Mayor Newlands: The next one is for Equal Employment Opportunity language that has to go into our code, as well.

Councilwoman DUBY: Mr. Mayor, I move that we approve Ordinance No. 2012-04 amending the Town Code, Chapter 26, Section 6 on Recruitment, Appointments and Promotions.

Councilman West: I second it.

Mayor Newlands: We have a motion and a second to approve Ordinance 2012-04 to change the Chapter 26, Section 6 for Recruitment, Appointments and Promotions. All in favor say aye. Opposed. Motion is carried.

- e. Second reading of an ordinance to amend the Town Code, Chapter 26, Section 18 “Employee Benefits” to include two flexible holidays

Mayor Newlands: We just needed to have an actual Ordinance for the two holidays, the floating holidays. We've never done the actual Ordinance. We voted on it, but we just never followed through with the Ordinance. This is Columbus Day and President's Day. So we just need a motion to amend the Town Code for the Employee Benefit's Section.

Councilwoman DUBY: Mr. Mayor, I move that we amend the Town Code to include an Ordinance to amend Chapter 26, Section 18, Employment Benefits, Ordinance 2012-03.

Councilman West: I second it.

Mayor Newlands: We have a motion and a second to approve Ordinance 2012-03 to change the Chapter 26, Section 18 for holidays. All in favor say aye. Opposed. Motion is carried.

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

- a. Approve new members for the Economic Development Committee

Mayor Newlands: We have three different committees where we have new members going on Economic Development, we have a gentleman named Edward Kay and James Crellin. The Ethics Form on Mr. Kay is not official yet; he signed it, but it's not notarized, so just when you make a motion, make it subject to the Ethics Form being fully executed.

Vice Mayor Betts: I make a motion to recommend Edward Kay and James Crellin to the Economic Development Committee, upon the completion of the necessary papers.

Councilwoman Hudson: Second.

Mayor Newlands: We have a motion and a second to approve Edward Kay and James Crellin to the Economic Development Committee, subject to a completed Ethics Form. All in favor say aye. Opposed. Motion is carried.

- b. Approve new member for the Planning & Zoning Commission

Mayor Newlands: We have five people on Planning & Zoning right now. This will be a sixth member going on Planning & Zoning Commission, we have a Linda Edelen, she lives in Cannery Village. She would like to join Planning & Zoning and we have all the paperwork.

Vice Mayor Betts: I make a motion to recommend Linda Edelen to the Planning & Zoning Commission.

Councilwoman Duby: Second.

Mayor Newlands: We have a motion and a second to approve Linda Edelen to the Planning & Zoning Commission.

Councilwoman Jones: Just one question. Is it planned to make that a committee large enough so that there is not a tie issue or are you just down members that committee?

Mayor Newlands: We're just down members. We should be at seven; this is bringing us up to six.

Seth Thompson: I think you can have five to nine, based on your Code and based on the State Code. It is good to avoid the possibility of a deadlock, obviously; but I also understand that we've had issues having everybody present.

Councilwoman Hudson: The more serious issue is just making a quorum.

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

- c. Approve new member for the Finance Committee

Mayor Newlands: The next item is Michael Cote going onto the Finance Committee.

Vice Mayor Betts: I make a motion to recommend Michael to the Finance Committee.

Councilwoman Duby: Second.

Mayor Newlands: We have a motion and a second to approve Michael Cote for the Finance Committee. All in favor say aye. Opposed. Motion is carried.

- d. Website redesign style and content

Mayor Newlands: The state has been working with Win to come up with a design for the website. They gave us two different templates. They use a software called Word Press. It's a canned software; it allows for different flexibility, different designs, so they gave us two different templates. One with a lamppost and one with out a lamppost. This website allows for much easier access and much easier update of information and what could happen is the accounting clerks can enter in the information and it just goes to Win or myself for approval; so it's not just one person doing updates to the website. It makes life a lot easier.

Councilwoman Jones: Well, I must say that I did agree with other Council that picture of the folks on the boat was very nice, as opposed to the black and white; but I still like that left margin with that lamppost.

Councilwoman Duby: I know we discussed this at a previous meeting, but I'm not sure I either remember the answer or whether it was still possible to change; but are the pictures at the top where we see the people in the boats or the historic photo, or what looks like a historic photo, whatever; are they going to change or will that be like a permanent, just that one picture? Because now the old one they changed.

Win Abbott: I'll answer Councilwoman Jones first. From my understanding, these are two stylistic interpretations. I believe that you could, indeed, have the

lamppost and the boat on the same thing. Those are just two style components and I think we can bring them together; so if you like both components, that could be done. Now, Councilwoman Duby, the banner will be static. What is in the center, however, will be changing on a regular basis. Indeed, you can have a rolling panel of, I believe, four different photographs and that can change once every 20 seconds or 30 seconds or whatever; and those things can be constantly changing to update particular themes that are relevant to that time of year.

Mayor Newlands: Pretty much everything else in here is standard. You have your departments on the left; you have different notes and news and meeting schedules and what happens is, as we add things, they just drop off the pages and they'll go onto separate individual pages. So there will be a page of notices and a page of meetings. And everything that is on our website today get's imported over to the new website. There's no burn in period; no migration period; what they're going to do in the State is they're going to take everything, pore it over and then we'll do a QA on it; make sure it all looks good; and then they'll launch and then we'll point the old website to here.

Councilwoman Duby: What's the time line?

Win Abbott: Weeks at this point. It could be done in just a couple of weeks.

Councilwoman Duby: Great. This looks good.

Mayor Newlands: And the question becomes our email. Our name will be Milton.Delaware.Gov, instead of the ci.milton; it will be a lot easier to remember. And our email, we're going to try to get hosted by Comcast, we're investigating that. So which picture do we want on the banner?

Councilwoman Duby: The boat.

Councilman Lester: The boat.

Mayor Newlands: The boat. Okay. And what about the lamppost?

Councilwoman Jones: I like it.

Mayor Newlands: I like the lamppost too.

Councilwoman Duby: Yes, so we've got a boat, we've got a lamppost. We're set.

Mayor Newlands: We have to actually vote on this, I guess.

Councilwoman Hudson: I make a motion we accept the boat and the lamppost for our website.

Councilman West: Second.

Mayor Newlands: We have a motion and a second to accept the boat and the lamppost for the website. All in favor say aye. Opposed. Motion is carried.

17. Executive Session: Discuss Personnel Issues, Litigation and Land Acquisition

Mayor Newlands: Can we get a motion to go into Executive Session?

Councilman West: I move we go into Executive Session at 9:09 p.m.

Mayor Newlands: We do need 10 minutes in Executive Session.

Vice Mayor Betts: I just have something to say to thank Deanna Duby and Mary Hudson and welcome the new councilpersons to the Council.

Mayor Newlands: Can we get a motion to go into Executive Session?

Councilman West: I made one. I made a motion that we go into Executive Session at 9:09 p.m.

Councilwoman Hudson: Second.

Mayor Newlands: We have a motion and a second to go into Executive Session. All those in favor say aye. Opposed. Motion carried.

Mayor Newlands: Can we have a motion to come out of Executive Session?

Councilman West: I make a motion to come out of Executive Session at 9:22 p.m.

Councilwoman DUBY: Second.

Mayor Newlands: We have a motion and a second to come out of Executive Session. All in favor say aye. Opposed. Motion carried.

Councilwoman DUBY: I would like to make a motion that we do not pursue the offer regarding real estate that was made to the town on February 23, 2012.

Councilman West: Second.

Mayor Newlands: We have a motion and a second not to pursue the real estate offer made to us on February 23, 2012. All in favor say aye. Opposed. Motion is carried.

18. Adjournment

Councilwoman DUBY: I make a motion to adjourn at 9:23 p.m.

Councilman West: Second.

Mayor Newlands: We have a motion and a second to adjourn. All in favor say aye. Opposed. Motion carried. Thank you all.