

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

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

1. Presentation by State Auditor's Office – FY2010 Audit

Mayor Newlands: Good evening everyone. We're going to get the meeting started. First is a presentation by the State Auditor's Office and Kathleen O'Donnell will present the fiscal year 2010 audit.

Kathleen O'Donnell, State Auditor's Office: Thank you. Some of you may have been here in the past where we've come here from AOA to talk about your financial audits that needed to be completed. Initially when we came to meet with the town there was a discussion about how to proceed with preparing the financials and then getting to a place where you can have an audit. After looking at the town's trial balance we made a recommendation that you contract with a firm that's accustomed to doing local government Financial Statements. They came in and did that. They did a compilation and as a result, when they were done, AOA, your State Auditor, Tom Wagner offered our services to come in and perform that year's financial audit and we've just completed that thankfully and we've released the report. I have to say I've been in the business for a long time and this was challenging in it's own respect and I'm going to talk about why that is, that it was so particularly challenging. For those of you that have seen the report, and I know most people don't have a steady diet of reviewing audit reports and I understand that; we had issued a Disclaimer of Opinion and I think for most people you understand that that's not a good thing; because you generally want your CPA Firm to come out with what they call an unqualified opinion, which is a good opinion; that's the best you could get. In this case, and we didn't know this until the very end and we had to take this up against the Standards and I'm going to explain in layman's terms how we got to this conclusion. There just simply wasn't enough information, supporting documentation, or even reliance on what we call internal controls to say yea or nay to the Financial Statements. We just cannot form an opinion about them and I want to start with the one thing that led us to where you needed some help preparing those financials, and that was your trial balance that had an account which was labeled a Suspense Account for which we couldn't seem to determine what it was all about. It ends up, that we do know that it was a bit of a plug account; but we don't know what it was used for; we just know it was used to make those debits and credits as the system went along, balance out, because you can't close your system without having your debits and credits equal and so this account just accumulated over the years. Well here we come in and somebody did a... I mean the firm did a good job of getting you the year end numbers as best they could, with what they had, but as the audit firm coming in and saying how are your opening numbers, we can't tell what those should be and so we started off with a very large problem, because we're talking around \$1.5 million that accumulated over a number of years, for which we have no idea what that's about. Now we know that some things that could be substantiated were corrected; like your fixed assets were way off and the firm, with the help of people in the town got that correct and so you should be in pretty good shape, as far as things that are tangible. You can feel it, you know you sold it, you have title to it, things of that nature. Some other things and there's just no

way I could present to you this evening, I would put you to sleep with all the different exceptions that we had during the audit and we had to... the reason it took so long is we had to go through the exercise of doing everything required under the Auditing Standards and it was particularly troublesome because there's so much of we don't have the support for this; we can't get answers to that; that also left the town in a precarious situation, because we have to ask them why is this account different from last year. If they have no information to answer those questions, we prefer they be honest, but then that leaves us with another issue that you're not accustomed to in most of these audits, because usually management knows why those numbers are different. Let me see. I've mentioned the trial balance which at some point you're going to need to shore up your trial balance to make your future audits work for you and I think that's where a decision needs to be made how to do that and whether to start fresh with a brand new system or somehow extract that out of your current Edmunds system, because I believe this all started when you implemented your Edmunds, your trial balance never equaled out and so it just kept building and building. The other thing that was really, really critical and very difficult to deal with, was all of your bank accounts, none of them were ever reconciled during the period or even for quite a long period afterwards and while management that was in there at the time was trying to reconcile it, you get to a point, if you leave those bank reconciliations go too long, you can't figure out the differences any longer and you put that on top of the fact that there were no controls in place, no trail to follow and you have nothing left to research it with. I think that basically sums up the situation we were up against and why this was a rather unique and challenging audit and we wanted to do our full due diligence for the town, so we put forth a lot of effort to try to dog down everything and make sure if nothing else, we didn't find anything that adjusted your closing balances at the end of the period, so hopefully you can get some of these things put in place and move forward and have better success in future audits.

Mayor Newlands: Thank you. The number of exceptions, do you want to just explain that?

Kathleen O'Donnell: Of all the audit programs that we executed, we tried to bucket items because it became very large and unmanageable; a lot of things that you would normally go to and test that we didn't have; so of all the audit programs, we had better than 60 exceptions, which is quite unusual in a straight up financial audit. Some of them are rather complex. It's in auditor's terms. We try to capulize those into the report that's on our web-site and I imagine you guys are going to post that as well. It summarizes the nature, the characteristic of what we found. We tried to give you examples, everything from payroll, lack of support for overall payroll and no procedures, no place to go, a lot of times your pay increases or limits on comp time or the use of comp is denoted in Council minutes and we pored through Council minutes to try to find any kind of approval for things that went on and that really didn't pan out very well for us. There wasn't a whole lot there for us to grab onto.

Mayor Newlands: And a number of the issues that you've found, we've already implemented some of those procedures, corrective actions over the last two years.

Kathleen O'Donnell: That's our understanding and I know we saw you move forward with your bank reconciliations because you had to start with our audit period, so I know you're doing those. The fixed assets, at the time the consulting firm was in, I was monitoring all that as we were trying to get the final date and I know you were working on recording things that were sold, very large things that I might add, that were never caught. So we did not audit that. That will be for your new firm.

Mayor Newlands: Right. And the Suspense Account, just so the public knows, there has been no use of the Suspense Account, at all, since 2010. That has ceased to be used.

Kathleen O'Donnell: Good.

Mayor Newlands: The software firm, Edmunds Software, they've been in. They've looked at our records. They're going to attempt to set us up so that the database gets refreshed for October of this year. We're not going to go with a new instance of the database if we can help it, so we can have our history and we can do continuous reports; they think they can do that. If not, they will give us a new instance of the database, so we have that as an option. So they're going to attempt to zero out all those accounts and all those balances as best they can. If they can't do it, we'll do a new instance of the database, but they've been through doing quite a number of those accounts already.

Kathleen O'Donnell: There's a huge improvement just to show, to be able to demonstrate that that Suspense Account was never tapped again. You stopped using it. It's frozen in time. So that's a big step in the right direction and the firm should be able to substantiate that.

Mayor Newlands: Right and they're looking at making sure that we have all the back end accounting entries are correct. They're actually annoyed that they set us up around the same time they set up Georgetown and Georgetown is running fine. They have no problems in Georgetown and they're kind of annoyed that we're not running fine on it.

Kathleen O'Donnell: Back originally when...

Mayor Newlands: When they set the systems up.

Kathleen O'Donnell: Yes.

Mayor Newlands: Yes. They've actually come in and they're resetting the system for free; they're not charging us for that effort.

Councilwoman Jones: I have just one question. You were the second auditor to come in. We had subbed our audit request out to a group in Pennsylvania?

Councilman Lester: That wasn't an audit.

Mayor Newlands: No, that was just to create the Financial Statements.

Kathleen O'Donnell: That's the consulting work that I mentioned.

Councilwoman Jones: Okay, so that was a help to you, though, the information that they gathered?

Kathleen O'Donnell: Oh, absolutely, because you were able to generate your financials in good form. It's a very technical process. You don't want to just give that to anybody. During that period they helped the town implement a number of GASB's that are quite technical and we knew they had the requisite background from other towns, because we put that out to bid for the town and then scored the proposals. We contract out a lot of work and they had a very good background and some experience in automated systems for towns.

Mayor Newlands: They were prepping the financials for the audit to be done. They were not doing the audit.

Kathleen O'Donnell: Right.

Councilwoman Jones: Okay.

Kathleen O'Donnell: The goal was to get you closing balances so you could move forward and then we offered to come in and do the audit, because we knew it would have been quite costly. The worse prepared you are for an audit, the more it costs you, because the risk goes up for the firm and then they've got to charge you a lot more, so this was a very, very high risk and that's why Tom agreed that we could come in and do that.

Councilman Lester: Excuse me, Kathleen, just as a recap, I think we made the decision to clean up the beginning of that 2010 fiscal year as opposed to going back and re-auditing the past years. It would have been much more costly and time consuming, had we done that.

Kathleen O'Donnell: To go prior to fy2010? I don't know even how you would do that, because there was just so little there for us for fy2010 and the more time progresses, the worse it gets.

Councilman Lester: I just want people to understand that we had to make that choice to clean up and go forward and...

Kathleen O'Donnell: The cost benefit just isn't there. What the town would get out of going back and trying to retro-audit, best case you'd get more disclaimers and you don't even have solid financials to have audited, so a firm following the standards wouldn't be able to come in and do it anyway.

Councilman Lester: For the people who haven't seen the financials or hadn't been present at prior meetings, the discrepancy in assets that we didn't own at that time, was close to \$1 million. It was a lot of money.

Kathleen O'Donnell: And you had a lot of financial errors, different ways, during that whole process. They'd run different directions. That also impacts when we get to the end of the period, what's your true equity balance; we don't know whether your residual value for the town is.

Councilman Lester: Speaking for myself, and hopefully for the others, I think you, in particular, your assistance has been invaluable and Tom's office everybody there has been very, very helpful and diligent and easy to work with.

Kathleen O'Donnell: We'll be watching you, we hope the best. We hope for the best for the town, we really do.

Mayor Newlands: You had a team of six or so working on this for us, I think?

Kathleen O'Donnell: Yes, six individuals, some of them came on and off because until we wait to get some information, it didn't flow real well because of the nature of the situation and we really tried anywhere we could to grab at evidence that would help us get through this thing and it just wasn't panning out.

Mayor Newlands: So now this is fully complete? I know you're back in doing the Municipal Street Aid and a few other grants, but they're totally separate engagement.

Kathleen O'Donnell: Totally separate engagement. We're totally finished.

Mayor Newlands: Okay, good. Anybody on Council have any other questions? No. Thank you very much.

Councilman Lester: Have a safe trip back.

Kathleen O'Donnell: Good luck to you all.

Mayor Newlands: Thank you. Let's bring the meeting to order at 6:44 p.m. with Public Participation.

2. **Public Participation**

- a) Jerry Kaiser, Heritage Creek, 109 Arch Street: Just a couple of things, I guess. There was a discussion last month on trying to move forward with the next phase and everything. There were just a couple of unbroken promises from the first phase that we're originally in now. Some of the council members behind my house is a complete eyesore. It's mosquito infested. I feel that it's a health issue. There are minutes here from a October, 2010 meeting that Reston was at and they were going to correct this in October of 2010 and it's only gotten worse. All they do is come along and piecemeal it; a week later it's busted up. But I guess there was a Homeowner's meeting last Thursday evening and I was unable to attend. My wife attended and from some feedback from some neighbors, there's a Catch 22, is that the word that was used; because if you go into the sales office out there, they tell you that they're going to correct this issue when the houses are complete on our street; all the ones that are complete now on that side of Heritage Boulevard. Now there are other excuses because they are almost complete. They've

started construction on everything to complete that street. It's mosquito infested, it is an eyesore. A couple of councilmen have been out there. That, and I guess if they get approve to move forward with the next phase, we probably will have... I guess probably is like the word "envisioned" that was used last month. I think as this other Fernmoor Homes put up any money, like I guess there's money in an escrow account or whatever for this first phase?

Mayor Newlands: There's a bond on the first phase.

Jerry Kaiser: Okay. Has Fernmoor Homes put up any bond money on...

Mayor Newlands: Yes. Yes. That bond was transferred from Wilmington Trust to Fernmoor Homes.

Jerry Kaiser: There's just a few things that I think before we move forward with the next phase, we need some assurance... Like concrete answers, a couple of us, because it only affects two properties. Other people can drive the other way and do not have to drive through this.

Mayor Newlands: Is it roads that are not done?

Jerry Kaiser: It's the alley, but we have rear load garages, if you're familiar; I mean please come out and look at it; from the water splashing, it's like pond scum water because it's there nine months out of the year, not just three months, or after it rains.

Mayor Newlands: So this is on the roadway for the alleys?

Jerry Kaiser: Yes. One alley, between Heritage Boulevard and Arch Street.

Mayor Newlands: Okay.

Jerry Kaiser: A few of the councilmen, council people, per se, have been out there and are familiar with what property I'm talking about.

Mayor Newlands: We'll make sure that we get somebody to go out there and take a look at it and then we'll talk to the developers.

Jerry Kaiser: Before any approval is given, I mean this needs to be not a probably, because we were told in 2010, October of 2010, a month before I moved in, that this was going to be fixed and it hasn't.

Mayor Newlands: Okay, we'll get somebody out there and we'll get an answer for you.

Jerry Kaiser: Okay, thank you.

- b) John Oates, 115 Arch Street, also Heritage Creek: I'm going to give an opinion and then I have two questions for Council. Fernmoor Homes at Heritage Creek, the current developer has requested to amend Phase 2B, the record Master Plan. The stated purpose for the Revision is to offer a greater selection of housing types to prospective customers. Fernmoor Homes indicates these revisions will have no affect on the general character of the development or on the overall density. The Revision includes a reduction of 2B phase size, from 14 acres to 7 acres and from 50 residential homes to 27. My concerns with this revision are not about fewer acres, fewer lots, or fewer homes; but rather smaller lots and more homes. The information provided by the applicant, I don't know if you guys have those color coded charts, the schematics of Heritage Boulevard; I guess not. They were made available to the public and P&Z had some. They are useful for this discussion, I assumed you guys would have them for tonight. That's one. Mr. Thompson has one there. At any rate, the information provided by the applicant and I'm referring to those schematics, show the new 2B construction plans, side by side with the originals. Revised plan for the Arch Street area presents no apparent issue in my opinion. The Heritage Boulevard build site is my area of concern. As illustrated, the original plan on the Boulevard was designed to accommodate 12 single family homes. The new plan now

requests Council's approval to squeeze 18 residential units into this same space. Smaller lots, more homes. The developer tactfully refers to this situation as lot line changes. This is in fact a density increase of 50% on the showcase block of the development, immediately in front of the pool and the clubhouse. Is there a credible reason why the effort to offer "a greater selection of housing types" must be done in this critical area? There are almost 400 other lots, where these other options can be built. Smaller lots and more homes is an obvious short term response to a difficult market. If approved by the Council, this change in character and density will become a permanent feature of Heritage Creek. Council should also note that Fernmoor Homes has indicated there will be additional revisions to the remaining phases of this project, as well. So what's next? This is not the neighborhood we were told we would be moving into. I have two questions for Council regarding guidance on the Town Code and Fernmoor Homes' application. My first question is the town in compliance with the requirements regarding a Public Hearing?

Seth Thompson: Yes.

John Oates: Yes?

Seth Thompson: Uh-huh.

John Oates: This is Chapter 220, Article IV, Sub-section H2, which simply says, "No Public Hearing shall be required for approval of amendments to the record Master Plan, unless changes proposed significantly alter a provision of the approved record Master Plan."

Seth Thompson: Sorry, what was the section again?

John Oates: Chapter 220, Article IV; 220-20 H2.

Seth Thompson: Is it Article IV.

John Oates: That's correct.

Seth Thompson: So 220-20. Okay. Your question is, I guess, you're considering this to be a significant alteration. I understand.

John Oates: I am asking the Council for their opinion. I'm pretty sure I know what their opinion is, since there has been no Public Hearing. I don't understand why Fernmoor Homes can come in and make a presentation, not only to Planning and Zoning and the Town Council, but meet with town staff, meet with Town Engineers, on an ongoing basis for the last few months, and for example myself, as a resident and taxpayer, I have not been able to speak with a single town official on the record.

Mayor Newlands: Who have you tried to speak with?

John Oates: Excuse me.

Mayor Newlands: Who have you tried to speak with?

John Oates: On March 20th, I tried to speak at the Planning and Zoning Hearing and I was told specifically this is not a Public Hearing, you are not entitled to speak. I was also told that at a Town Council meeting; that this is not a Public Hearing. You can not speak about this matter. And I understand what the rules are, but it doesn't make a lot of sense that an out-of-state developer can come in, have this kind of access to town officials and a resident has none. Now again, I'm asking... I would just like confirmation of the town's position on this Public Hearing.

Seth Thompson: You're absolutely right that this section of the code applies to LPD. It's going to be a question of degrees. Again, you're looking at does the word "significant" mean and it's not defined in this portion of the Code. I think the argument would be that looking at these lot line adjustments, our Code and the sub-division ordinance,

specifically provides for that to be done administratively. So when you're looking at lot line adjustments, if you read the Code as a whole, I think the implication is this isn't something that significantly alters the Record Plan.

John Oates: Alright, so the Council's opinion is there are no major adjustments here.

Councilman Booros: The Solicitor's opinion. That's the Solicitor's opinion, not my opinion.

John Oates: I stand corrected.

Seth Thompson: And the Council is free to... Again, the requirements that are set up in the Code are often minimums. If Council wanted to go above something like that, they're certainly free to do so.

John Oates: Does that mean we can have a Public Hearing?

Seth Thompson: Again, that's up to Council. They can act... This is a minimum requirement. If it were to cross the threshold of significantly altering a provision of the approved Code.

Mayor Newlands: We'll get into the discussion later, but they're not changing all of 2B, they're only changing a part of it.

Unidentified Speaker: Look at 2B.

Mayor Newlands: Hang on.

Seth Thompson: I think it's helpful to compare it to our sub-division ordinance, because really what we're doing is we're going through and effectively amending the major sub-division that was approved before, and that's in our Chapter 188. So that also provides for the ability to do lot line adjustments on a less cumbersome, more administrative process.

Councilman Booros: But 188-33(b) says that no additional lots are created. I think we've gone from 6 lots on either side of the street, to 9 lots on either side of the street; so you have created additional lots.

Seth Thompson: Right and I think that's why we fall under the major... That's why they...

Councilman Booros: It's not a minor adjustment. It is a major adjustment, because minor adjustments says you're not going to create any additional lots and you have.

Mayor Newlands: Does that have to do with the entire development or just this section; it has to do with the entire development, so...

Seth Thompson: But we're not operating under the minor lot line adjustment section for this. I'm just kind of pointing to it as an example in terms of how you've...

Councilman Booros: You've turned 22 lots into 27, right on the main street in this neighborhood and the people in this community think that's a major change. As you know, Cliff, neighborhoods are sold all the time. They're not developed necessarily for residential housing all the time; there are warehouses on them and everything else. This is all we're talking about right now is what they're about to do to this section 2C, or whatever it is.

Mayor Newlands: I think we need to get this discussion into the meeting, as opposed to public participation.

Councilman Booros: I understand, but I think these people are entitled to be heard.

Mayor Newlands: At the time when we have the section, we'll let him come back and ask the questions. I have no problem with that.

Councilman Booros: Thank you.

John Oates: Okay, question two.

Mayor Newlands: I may not answer it now, but...

John Oates: Question two, is Fernmoor Homes in compliance with Code regarding the performance bond? Now I just heard you mention to Mr. Kaiser that the existing bond for 2A has been transferred to Fernmoor Homes. My question is regards to 2B. Has a performance bond been posted by the applicant for 2B? And this, of course, is Section 188-37, which says as a condition of approval the town shall be required the sub-divider to...

Mayor Newlands: It has not yet, but it will be.

John Oates: So no performance bond has been posted.

Mayor Newlands: Not at this time. No.

John Oates: How then can a vote on approval be taken?

Mayor Newlands: I think it's more of a formality then anything else. Once we approve this... They won't be able to start building anything until we get a bond from them.

John Oates: Town Code is a formality?

Mayor Newlands: I mean the wording of it, where we have to do the approval.

John Oates: Well the wording of it says it can not be granted until the bond is posted.

Seth Thompson: Mr. Mayor, if I could step in. It sounds to me like you're proposing that any approval would be conditioned on the bond being posted, so in essence, that's how it would be phrased in terms of the approval.

Mayor Newlands: That's correct.

Seth Thompson: I think the bond would have to be posted before it gets stamped. I think, if I'm understanding your intention.

Mayor Newlands: Yes. That's correct.

Seth Thompson: Because the Record Plan has to get stamped and then it gets recorded.

John Oates: Okay, you guys are on this?

Mayor Newlands: Yes.

Councilwoman Jones: I have a question before you leave. Who in Milton sets the bond? Takes into consideration and sets the bond?

Mayor Newlands: What do you mean sets the bond?

Seth Thompson: The amount?

Councilwoman Jones: The amount.

Seth Thompson: My experience has been that... Typically the engineer comes up...

Councilwoman Jones: But who?

Seth Thompson: Somebody needs to come up with a cost estimate, is that what you're asking Councilwoman Jones?

Councilwoman Jones: Yes.

Seth Thompson: And then they do 125% of that estimate.

Mayor Newlands: Schell will come up with a cost estimate; we'll give it to our Town Engineer to get verified and then we'll come up with a compromise on that; and then there will be 125% of that.

John Oates: Thank you.

- c) Georgia Dalzell, Chamber of Commerce: I always seem to follow these heavy issues, but I'm here for the Chamber to talk about three events that are coming up this month. Some of the things your Chamber does is work with the Department of Tourism to help bring positive public relations to the Town of Milton and this month we have three events that are going to help to do that. One thing you might not know, Milton is really in the heart of what the Department of Tourism is developing here in Southern Delaware. We are very well established in the wine and ale trail, with our Dogfish Head

Brewery; we are involved with the history trail through our museum. These are really popular things that are bringing people to our area and we're also involved in something new, called Agri-Tourism, which also includes the Farmer's Markets, the growers, the restaurants, and also venues such as our lavender fields here in Milton that bring people to our area. Some of the things that we're doing this month, specifically, is we're sponsoring a team in the World Series. Now this is the World Series of Softball. This includes teams from all around the World and our Chamber has been selected to sponsor one of these teams and our team this year is going to be the team from Windsor, Ontario. We had a team last year who came in fourth out of the entire field, which was pretty good, so we're rooting for Ontario this year and the town has provided a Certificate of Honorary Membership in the Town of Milton that it will present to our team on Tuesday. We're also bringing welcome gift bags to these kids that are coming from outside of the area and last year we had a wonderful selection of things from our business merchants and a lot of the team families came to Milton, after the series was over and spent some money with our merchants and that's what we like. But we really wanted them to visit our town, too, and so that's what it's all about. I thank the Town Council, Town Manager and Mayor for participating in this event. It's very good for the Town of Milton. The second thing that we're going to be involved in is we're participating in a contest. This is a national contest for the prettiest, painted town in America and this is being sponsored, once in a decade, it hasn't happened for ten years and so they called and asked if we would please, please be sure to participate, because they've heard so many nice things about Milton. So we have been out taking photographs of all of our houses and because it's the prettiest painted town, it doesn't include buildings with siding; so we're in luck here, because we have a lot of old homes, a lot of old buildings, and we have to submit twelve of our best and a description of these homes or buildings and so I think we have a lot to choose from. I have about 36 photographs already and we're going to sit down and choose the ones that we think are most appropriate, but we have a lot to choose from. That's really been fun trying to narrow it down. So that's another positive thing that will put Milton on the map, if we happen to win, so hope for the best there. This contest takes place the end of this month, so we have about three weeks to get it all together. If anyone has any suggestions, you can call the Chamber office and help us out a little bit. The third thing I want to talk about is an event that is going to happen later this month. It's Bargains on the Broadkill. It's one of our bigger events and it brings people in. We have the 10-mile canoe and kayak race, which the theater promotes and that brings people, believe it or not, from all over the eastern United States and Canada and who knows where, but we do get a big response to this. It's vendors, it's fun for the family, it's in our park here. It brings people into Milton, so there are three, good positive public relations events going on in the month of August, so I hope you all pay attention and participate in some of these. Thank you so much.

Mayor Newlands: Thank you.

- e) Ed Kay, Member of the Economic Development Committee: I want to talk about Economic Development. I think we are a group of conscientious people. I'm very proud of what we are doing. Pretty soon you'll see the visitor information kiosk coming to fruition and I went to a seminar that the town indirectly sponsored me to go to. It's really the Downtown Delaware People, from the Economic Development Office of the State of Delaware. What I learned is what other towns are doing that we need to pay attention to, because in one way or another, we compete with other towns. Either neighboring towns,

or towns somewhere else. They're all trying to attract business and what they're doing are things that we need to learn from. We need to become much more energetic and project enthusiasm and encourage people to come and invest here and enjoy. We don't have that kind of reputation for some reason, or another. I know what reason it is, but we need to really, really invest the Mayor and Council. The future depends on it. If we don't invest in a future, it's not only us that are going to hurt, it's our children and our grandchildren. Okay? They talked about renewal and renovation and so forth and doing... They were talking basically about painting dull buildings and encouraging landlords and simply encouraging people to come and enjoy Milton. Enjoy Milton has been my favorite slogan. Okay? Come and enjoy our town and yes, it's a chicken and egg situation. If we don't encourage people to come, then business, individual investors are not going to invest. Okay? And if individual investors do invest and the customers don't come, then it's going to be shame on everybody. My request is please, please, let's talk about investing in the future of this town. Okay?

Mayor Newlands: Do you have any suggestions?

Ed Kay: I have a lot of suggestions. I don't know if you want to talk about them now. Yes.

Mayor Newlands: Not at the Council Meeting, no.

Ed Kay: We need to look for attractions. We need to look for making Milton a destination. There are a lot of different things that we can do and there are a lot of chicken and egg situations; and not all of it takes a lot of money. What it does take is projecting a positive image and being very energetic about it. And not looking dull, because compared to other towns, unfortunately, we don't look very shiny. So the Code Enforcement issue of buildings... There are quite a few of them. I'll send you a whole list. I don't anything that I tell you will be very new.

Mayor Newlands: I would appreciate that.

Ed Kay: I'll show you what other towns are doing.

Mayor Newlands: Just to let you know, Win Abbott and I met with the Delaware Tourism Office last week, so it was Linda Parkowski was down with her team and they're videotaping the town; various aspects of the town and we're going to be prominently sponsored on their website along with Delaware City, so we're the second city that they're going to highlight on the visit Delaware site.

Ed Kay: Wonderful.

Mayor Newlands: So just to let everybody know that.

Ed Kay: It's the cumulative impact of a lot of little things that we need to start doing more and more of. Thank you very much.

Mayor Newlands: Thank you.

- f) Bob Howard, 217 Chandler Street: This is the one/two punch and I am the Chairman of the Economic Development Committee. I'm here tonight to call the Council's attention to the importance of promoting Milton and I want to do that because I know you're working on the budget for next year and you are going to be in the process of doing workshops and working on the budget. The Committee did submit a budget request to the Council and I think it's in your package. I know that we've talked to the Town Manager about it and he has taken it under advisement, along with the Finance Committee, and they've chosen to put in the draft budget, the amount that the Economic Development Committee had last year, which was \$1,000, which was \$1,000 more than the Economic Development Committee had ever had before. However, again, Milton...

When you're doing the budget, I would just like to point out again, I think and I think the Committee agrees, that on the supply side of the budget, the most important thing and the biggest number and the biggest impact on the budget is residents, residential impact; new construction, taxes, permits, but it's residential construction or improvement and the tax base, has the biggest impact on the budget. In order to get more residents in Milton to grow the income side of the budget, you need to promote the town. We need to sell people on coming to Milton and in order to do that, it takes money and our budget request, I would just like to point out, was not intended to say turn this money over to the Committee; anything we would spend would have to be approved by the Council, but if you don't budget for it, it's not going to be available to spend, no matter how important people think of a given idea during the year. So my request tonight is during the budget deliberations, you give a lot of thought to how important it is to promote Milton and how much that's worth. My point is, it takes money to make money and you can't spend it if you don't plan for it. So that's my request. I have one other thing I would like to say mainly to the townspeople. The Economic Development Committee is going to do a reprise on it's bake sale from Fall Into Milton. We're going to have a bake sale at the Bargains on the Broadkill and so anybody who would like to help by contributing baked goods, we'd be happy to have the contribution, otherwise come to Bargains on the Broadkill and take home some baked goods.

Mayor Newlands: Thank you.

Councilman Lester: Mr. Howard, my question to the Economic Development Committee is, you can't just ask for they money. Is there a plan... Do you have a plan in place exactly what you're going to do with the money, complete with assumptions and the entire process. It's one thing to just ask for some money, but we need to know what your plan is.

Bob Howard: The budget request that we put in was specific and it was not... We asked in a couple of places for money for advertisement in regional publications or local publications. We did not go to the detail of saying this ad is going to cost this much, we asked for I think \$1,000 in two different categories; actually in three different categories and we asked for \$1,000 to prepare a brochure for the town. Now the town has got a brochure from the Chamber of Commerce; it's got a brochure from the Downtown Merchants; but we think more could be done with the brochure that's given wide dissemination in the area and in the broader area. We wouldn't, again, spend any of that money without a specific proposal and quotations for what it was going to be. We don't have those plans nailed down and specified now, but, again, our point is if you don't put something in the budget, we're not going to be able to spend anything.

Mayor Newlands: I think you have requested somewhere around \$6,500.

Bob Howard: Pardon me?

Mayor Newlands: I think you requested somewhere around \$6,500, was it?

Bob Howard: It was \$5,800.

Mayor Newlands: \$5,800. Right.

Bob Howard: I'm sorry. It was \$5,800 for promotion and \$750 for continuing education to enable members of the committee to go to workshops that were somewhat distanced, to help with the tuition of that if DEEDO wasn't going to reimburse us for it and they don't reimburse for travel and lodging, generally

Mayor Newlands: Did that include any grant money? Do we know what grant money is out there for advertising?

Bob Howard: In general, DEDO, the money that they get from grants that they'll give to the town, is in the form of training or technical assistance. They don't give you cash and so they don't give cash. The Delaware Tourism things are their website and their publications are going to be articles and advertising that would be free, that may offset some of this stuff, because that meeting last week, they were proposing they do things for us at no cost to us.

Mayor Newlands: Right. Okay. Thank you.

Bob Howard: You're welcome.

- g) Jeff Dailey, 211 Grist Mill Drive: I hope that all of the Chamber events go beautifully and that our town is looking good and in the spotlight and that many people come to visit us. However, one of the things that will broadcast a happy, whole, healthy town is if it's citizens are happy, whole, healthy folks and hearing about the look/see at our consumer rights, quality of lives, and intent of the law in terms of this change to the Heritage Creek Master Plan. I think that we for the first time heard the Mayor say that residents of that development could get up during the presentation and also present.

Mayor Newlands: No. I said Mr. Oates could do that, because he had a specific question that I would like repeated during that timeframe. If he was freely allowed to speak, at the time he did, I will let him repeat that so we have a continuity at that time.

Jeff Dailey: Thank you, Mr. Mayor, I appreciate that clarification. I would urge you to look at involving residents of communities in such presentations because quality of life impacts them directly. They're the ones, consumer rights, who bought into one thing and now, if I understand Mr. Oates correctly, that thing may change. And, of course, I empathize, because it wasn't so very long ago that this Council allowed a developer to sell what we in Cannery Village, call the back 40 to an enterprise that knew for ten years it could not expand on it's site. So, I'm sorry, but there's still a little salt left in my personal wounds on that one. On the audit report, fiscal year 2010, page 9, total net assets \$4,505,090. Can we learn what our total net assets are today? I'm curious. That figure was \$4,505,090.

Mayor Newlands: You scared Councilman Lester off. Where did he go? He's going to have to answer that question.

Jeff Dailey: Okay. And then on Page 29 of the fiscal year 2010 report, it says it has a delineation, future debt service payments for the State Revolving Loan; this would be the drinking water, State Revolving Fund. We have a loan and it looks like we'll be paying that off through 2023. The only reason I bring this up is because if I understand correctly, we are going to be reapplying to the Office of Drinking Water State Revolving Fund with a loan pre-application, considering borrowing more money and of course, we had the referendum in the spring. So I'm just curious how we're going to justify taking on more loan, when we have loan that we haven't paid off and will be paying off, interest, principle, through 2023. That's the pay schedule that's in the audit for 2010. And, I also want to mention, Councilman West isn't here. I wanted to thank him for once again having the Water Committee meeting in one of the library meeting rooms; so that meeting room, the small one that he chose to be in, will accommodate about 12 people. The July 25th Water Committee meeting had six residents in attendance, and two reports, and a gentleman by the name of Steve McCabe with Pennoni Associates, the engineering firm that has been taking a second look at what it is we need in terms of improvements to our water system. I was one of the six residents that witnessed the world premier of the Pennoni report that has been long awaited. I know that the Mayor has tentatively

scheduled that presentation for the 23rd of August, but I don't understand why, if it was ready, we couldn't have had it then? But my more important question is, will the loan application to the Office of Drinking Water State Revolving Fund, will that application go in before the August 23rd meeting; will it go in after; and what kind of parameters go into that application?

Mayor Newlands: It's not due until September 15th, pick up, if you don't mind and you can respond to the rest of the question.

Win Abbott: The State Revolving Fund loan pre-application is due the 15th of September. When we have our next Council Meeting and Pennoni Associates is able to give the full report to the Council, the Council can determine what your priorities are, when it comes to this loan pre-application. It's a two-step process. The pre-application is quite a bit more generic and then if we pass that, then there's a full application that occurs in about December. Am I correct Mr. Kerr?

Bob Kerr: Yes.

Jeff Dailey: And in a follow up to the Town Manager, he commented that there was a grant, 50% of the monies would be paid to map and model our current water system. Have you any good news in that well?

Win Abbott: That grant is for the improvement of surface water, like the Broadkill River and as with a lot of things, you can show benefits to different areas. So, for example, water run-off from stormwater hitting our streets and washing oils and whatnot down from various places in town into the river, is something that the surface water people are very interested in us containing. Before we can move forward with any kind of remediation for that kind of condition, we have to know exactly how many gutters we have and the length of the streets, and so on. While we're preparing ourselves to be able to do that, at the same time, we can get better mapping data than we have right now that could be used for other purposes, such as water infrastructure system improvements for the Drinking Water because right now all that we have is visual maps. We don't have the modern GIS type maps, where you can say definitively from point A to point B, it's this many feet and I have a hydrant here at this particular point and a hydrant there and so on. So being able to get a 50/50 match for planning purposes, puts us in a better position to address surface water quality issues in the future. It also puts us in a better position to do a lot of other Public Works type things; even if you just wanted to pave a street in the future, it gives you much better data to work with. Now the initial application for that is on the 29th.

Jeff Dailey: Okay and Councilman Lester's back.

Mayor Newlands: Can he just ask you one question and that's it. We don't want people to go on too long.

Jeff Dailey: Sure. Councilman Lester was out of the room. Did he get the question?

Mayor Newlands: You wanted to know in the audit it has \$4.5 million... I guess not.

Jeff Dailey: Yes, in 2010 it lists as our net assets, total net assets, \$4,505,090. What are our total net assets today? Can you give us that figure?

Councilman Lester: No. I don't have a balance sheet here.

Jeff Dailey: What are we worth?

Councilman Lester: So I can't do that.

Jeff Dailey: Okay, well that might be a good thing. I know that this was holding up the 2011 audit and that will show a figure, but it's a good thing. As a citizen, I would like to know.

Councilman Lester: Keep in mind, much of the money that was there in 2010 was spent, so it's probably somewhat decreased. It's gone.

Jeff Dailey: Right. Right. Just curious.

Councilman Lester: Disappeared.

Mayor Newlands: Mr. Dailey.

Jeff Dailey: Yes, thank you. And back to the start, quality of life issues is what we're all about. Thank you, Mr. Mayor.

Mayor Newlands: Mr. Dailey. No.

- h) Damalier Molina, 330 Behringer Avenue: Good evening Town Council and residents of Milton. It is my pleasure to be here tonight and talk again about a matter that I believe is still unaddressed and that is Dry Zone. I want to commend, Mr. Seth Thompson, for making a very thorough review of the facts. He must have gone to the same school I went to, so I'm very proud of that. Anyway, but that's where we differ and the point is that we have to understand what has happened with Dry Zone or before. When that business started, it was Milton Manufacturing. It was an N use and I will explain what the letters mean and how they apply. It was an N use, it was Milton Manufacturing, then it went to National Screen, which is fabrication, so it is considered an F group and in doing that review it was considering lesser use. I don't have a problem with that. Mr. Thompson quite well illustrated that, however, when you go from a category N to an F, to now what I consider Dry Zone to be a B, and I will explain that, as well, there's a provision in Section 220-71(f) that says no conforming use shall be maintained, renewed, changed, or extended without a Certificate of Occupancy having first been issued by the Code Enforcement Officer and in this case, there has not been. This is a B use. I will get to that point on how we proceed. For those that understand, I'm a city planner by profession. I've been doing this type of business since 1976 and I still do it today and even up to this afternoon I've been dealing with officials in Pennsylvania on using the zoning code and the building code on how we're going to address some illegal operations. But, if we go to National Screen, in April of 2011, that's when they ceased operation. Prior to that they were classified under the North American Industry Classification System as Number 221310, in that category and they were a water supply and irrigation manufacturer. In fact, their advertisement is National Screen Corporation in Milton, Delaware is a private company characterized under water well drilling, equipment and supplies manufacturer. Then it morphed into what is now Dry Zone, about 2005, 2006 and it became Dry Zone and when you're looking at industry under the North American Industry Classification you see the progression, so it can still be classified as a lesser use; because you're going from an M, manufacturing, to a fabrication to a B category, a business category; it's now becoming a waterproofing contractor. They advertise their business as being in the business of cost based repair, basement waterproofing, foundation repair and their explanation is that Dry Zone is a certified basement system deluxe dealer and basically gives their homeowner peace of mind with a 20-year free warranty. So there's a progression and that was classified under 238390, which is a different industry business classification. Now for those who are here who may be prior building officials or fire officials, usually what the building code and the fire code work in tandem with the same identical group category. You went from an M to an F to a B; that's what it means, manufacturing, fabrication to business. The fact that they went through that process without compliance with Section 227-71(f), not having acquired a Certificate of Occupancy, they basically did a change of occupancy

and a change of use, without adhering to the protocols under your zoning code.

Mayor Newlands: I'm going to defer to the attorney on this one. And he's already responded to you, so I don't know how to...

Damalier Molina: Well he responded based on his limited information.

Seth Thompson: Well to make it... The letter really addressed the parking issue, which is a separate parcel.

Damalier Molina: That's correct, but that's an assumption that it was correct. My position is that that constitutional protection is extinguished because of the violation of the zoning process here.

Seth Thompson: I think it's important to think of the two separate parcels. Again, the use on the one parcel at least dating back to 1985 has been a parking lot. You're not talking about the structure.

Damalier Molina: I'm talking about both right now, because one is dependent on the other; so both those uses have been extinguished; the fact that they violated the procedures.

Seth Thompson: Okay. I wouldn't necessarily agree that one is dependent on the other, because again they're two separate parcels, but I do understand your point.

Damalier Molina: You understand what, that they are in violation?

Seth Thompson: That the change of business was never... They didn't apply and follow the town's procedures.

Damalier Molina: They shouldn't be operating. I don't want to put them out of business, mind you, I just want the lot adjacent to me corrected. You know, you handle the change of use as you wish. There's no need for it to be in violation of your other section in here, that you should have a condition to this, averse to the my property value.

Mayor Newlands: And if we get everything straightened out with Dry Zone and if all the paperwork gets fixed and everything else gets done and the lot doesn't change, what are you going to do?

Damalier Molina: Well, that's the issue. That application would be coming before is very prejudiced; that application is prejudiced because you're going to be approving it knowing that was done erroneously.

Seth Thompson: I don't think anybody's prejudging anything.

Mayor Newlands: None of us were here then.

Damalier Molina: No, but if it moves forward, it's an application that's prejudiced.

Seth Thompson: Mr. Molina, I certainly appreciate your point, that there's a procedure in place and that it should have been followed, it sounds like a number of years ago.

Damalier Molina: Right, that's correct. And that's why I'm here. It hasn't been followed, no action has been taken.

Seth Thompson: Well in terms of if there's a violation of our zoning code, then seemingly the person to go out and inspect would be the Code Enforcement Officer. They would then issue a citation if... I'm speaking off the cuff here, but I think they have a certain period of time to correct or to put in an application...

Damalier Molina: The correction has gone before the Planning and Zoning to correct it.

Seth Thompson: Right. It could be that the solution is they need to apply.

Damalier Molina: They will have to go back, but it will be an application that's prejudiced, because you're moving forward with an application with the assumption that it's going to be approved.

Seth Thompson: Again. I can't speak for our Planning and Zoning Commission but I

don't of anything that would lead to me to support that conclusion.

Damalier Molina: We don't know. We don't know. This is my assumption, based on the performance.

Mayor Newlands: Does he have to file a formal complaint, in order for us to then go back to Planning and Zoning.

Damalier Molina: I did file a complaint.

Seth Thompson: The Code Enforcement Officer should be able to go out. It doesn't take a formal complaint to trigger that.

Mayor Newlands: Okay.

Damalier Molina: Give the citizens in that area an opportunity to be heard, just like for the folks in Heritage as well. I like Gary. As a person, I like Gary. I just don't like the business conduct that's taking place now.

Mayor Newlands: I understand. We will check into it.

Damalier Molina: Good night folks.

- i) Gwendolyn Jones, 204 Atlantic Avenue: I first want to express my appreciation and congratulations for those who attend these meetings. Considering the last Water Committee meeting, Pennoni gave us a long awaited breath of fresh air. It's about time. In short, if Milton improves it's water accounting, repairs the water leaks and improves the metering and applies for the increased water allotment for far, far less then \$3.5 million, we can surely avoid this bond and that point, going into that application loan process isn't taking for granted a forgiveness, expecting not having to repay a portion of it fundamentally dishonest. Second point, is why haven't we had such a competitive review previously? You would think that for what it cost us, we should have gotten something far more than what CABA Associates for Milton has used historically. I believe we need to review that. Mr. Newlands, you promised having such meetings in a time that the public would be able to attend. The water restrictions were based on an emergency that had every appearance of being just too convenient. The water tower crack looked to be leaking for awhile; rust, etc., takes time to form. I know, because I've been in that industry for 30 years. How much water has been leaking? How seriously did it impact the bottom line? Isn't Tidewater required to inspect things like this periodically? And didn't the restriction apply to all equally.

Mayor Newlands: Tidewater does not provide any water service to the Town of Milton, at all.

Gwendolyn Jones: That's not what I'm talking about. Somebody has a...

Mayor Newlands: Tidewater does not inspect our water towers.

Gwendolyn Jones: Then who does?

Mayor Newlands: What's the name of the water company?

Win Abbott: Corrosion Control.

Mayor Newlands: We have a maintenance agreement with them and they inspect the towers once a year and we inspect the towers on a monthly basis and that's how the water leak was uncovered on one of our monthly inspections.

Gwendolyn Jones: And how long does that water rust? The picture was telling. There's a significant rust burn down there. How long does that take to form?

Mayor Newlands: I have no idea. I'm not an engineer and I don't know.

Gwendolyn Jones: You're shooting yourself in the foot, when you have not been open and clear with everybody in tending to obfuscate things, when you all of a sudden this water issue pops right up in the middle of your emergency and it's a little too convenient

to me. Now I'm not finished here.

Mayor Newlands: Well I'm not listening anymore, so go ahead.

Gwendolyn Jones: That's okay. I'm not talking to you at this point.

Mayor Newlands: I'm done.

Gwendolyn Jones: The water restriction applied to all equally; does Milton include in itself the offices. Finally, I keep running up into the private irrigation wells and these are at no additional fee or charge within the Town of Milton will bring a significant relief to the seasonal peaks which to a large extent necessitate the main issue primarily. Mr. Newlands when somebody points you're mishandling these issues and how many others in your administration, leave me to look forward to next year's municipal elections. An astute public relations policy improvement seems beyond Milton Town Hall consideration and too little, too late. Thank you.

- j) Mike Cote, 304 Grist Mill Drive, Cannery Village: I guess to the folks in Heritage Creek keep pressing for your guarantee. We don't have one. Cannery Village, Phase 2B, does not have a guarantee and the section of the Code that was referred to 188-37, says that there should be and there's been some changes to that section over the years, but I believe at the time it didn't say bond, it said guarantee; but we have nothing. The remedy for nothing is 188-23, which says withhold building permits and certificates of occupancy and the town had at one time talked about doing that, and then declined. When the town did not act as it should have to get the guarantee and then declined to take the remedy offered in the Code, the town is now responsible. Next item on the Cannery Village streets. We have a 12-page punch list of items to be repaired before the town takes over the streets. Two items that I think are significant, one is a missing fire hydrant, which the town's punch list is dated October 18, 2011 and as far as we can tell, nobody contacted Chestnut Properties about that as of roughly the middle to the end of June and that was with the list, in general; not specifically that hydrant. There's another corner where the hydrant is there, but they couldn't find the valve in the street, for the hydrant?

Mayor Newlands: The shut-off valve?

Mike Cote: I believe that's correct. The engineer could not find the valve to know, in theory, that that hydrant is on. My problem with it is that it's the one next door to my house. I would like to know that it's working and that the hydrant didn't get put in and a pipe get run by it.

Mayor Newlands: We'll put that on our list to test and we'll do that shortly. We test the hydrants periodically throughout the entire town.

Mike Cote: I was going to ask you about that, because where I used to live, they tested the hydrants and that was always a pain, because we had brown water for a day.

Mayor Newlands: We do that. There's a schedule that they use. Some are done more frequently than others, if they're at the tail end and there's a whole schedule and Allen goes through all that.

Mike Cote: And for those folks who live on that part of Summer Walk Boulevard, I think they would like to have the hydrant, so the town needs to... I would ask the town to compel the developer, not in a year or two or three or four, when they're ready to leave and now want to turn the streets over, but sometime very soon.

Mayor Newlands: Is the missing hydrant near developed homes? I'm not familiar with the missing hydrant.

Mike Cote: Yes. Yes it is.

Mayor Newlands: It is. Okay. Then we will work it out.

Mike Cote: Yes, I think a couple of those people are here.

Mayor Newlands: Then we will act on that right away.

Mike Cote: And, like I said, there's 12 pages of items on this list and only one of them is paving. The streets are a disaster and bringing new people to Milton; it's really hard in Cannery Village because you drive in over this... it looks like a mogul course on a ski run, to approach the model home that they're trying to sell from.

Mayor Newlands: We don't have any code unfortunately right now, to dictate when paving gets done. Mr. Thompson and I have been discussing implementing something and making it retroactive to all developments.

Mike Cote: That would be great.

Mayor Newlands: Okay, so we are looking at that, it just hasn't come before Council yet.

Mike Cote: Because we've heard lots of stories about no money... Before it was no money, it was the development's not finished yet, we don't want to pave it and have it be torn up; now it's we have no money. But, okay... A couple of other questions and I guess these are going to be for Councilman Lester from the auditor's report. It said the suspense balance was \$1.3 million in the report and that was as of the end of 2010?

Councilman Lester: Correct.

Mike Cote: Between then and when we stopped using it, I assume you didn't stop using it exactly at the end of 2010.

Mayor Newlands: They stopped using it before the two of us got into office, which was April of 2010. I guarantee you that, because it hasn't been used since then.

Mike Cote: Okay, so that balance hasn't changed.

Mayor Newlands: No it has not.

Councilman Lester: No.

Mike Cote: And on page 5 of the report, where it talks about management, discussion and analysis and a summary and statement of net assets and in listening to Ms. O'Donnell, it sounded like this problem didn't happen in one year. This problem developed over a number of years.

Mayor Newlands: No. That is correct.

Mike Cote: And we had audits those years?

Mayor Newlands: That is correct.

Mike Cote: Has anybody considered chasing after the auditor for not doing his/her job?

Mayor Newlands: Next question.

Mike Cote: In the prior period adjustment on that page 5, which looks like a write-off of \$358,645...

Mayor Newlands: How much?

Mike Cote: \$358,645. Do we have any idea of where that came from?

Mayor Newlands: I'd have to see the page, I'm sorry.

Councilman Lester: Are you talking about the prior period adjustment?

Mike Cote: Yes.

Councilman Lester: That was another item they simply couldn't locate it and in tax accounting if you had a problem, you do a prior year adjustment. It probably wasn't worth the time and effort to go back over years to find where that came from.

Mike Cote: Okay. I don't know, it's an awful lot.

Councilman Lester: A \$1.3 million is a lot of money too.

Mike Cote: In suspense?

Councilman Lester: Yes.

Mike Cote: So is it possible that there's going to be another prior year adjustment for some of that \$1.3 million?

Councilman Lester: No that \$1.3 million is going to have to go away and as I understand, from my point of view, the only place we can put it is to adjust fund balance. Normally, for a regular business you would have retained earnings and a missing adjustment you would put against retained earnings.

Mike Cote: Okay.

Councilman Lester: We can't just throw it away, because the books are out of balance.

Mike Cote: No, I understand. I understand that. It's got to go somewhere, but it's another prior period adjustment?

Councilman Lester: That would be a prior period adjustment, exactly and that may give the precedent of it a problem because when they are opening on the opening balance sheet, you've got a fund balance that you can't verify.

Mike Cote: I understand that.

Councilman Lester: So this is kind of a cat chasing it's tail.

Mike Cote: Difficult. Yes. Now did the State use a controlled questionnaire or checklist when they did their work?

Councilman Lester: They used their GASB Audit Requirement Checklist, yes. They used whatever a regular audit firm would use in the circumstances.

Mike Cote: Were we given a copy of that to see what... Were we given a copy of those documents?

Councilman Lester: Well they reference it in their report.

Mike Cote: Yes, but I'm thinking about the specific situations they talked about, so that we know those specific situations get corrected.

Councilman Lester: They gave us a separate report with sixty-one exceptions, which identify everything they found.

Mike Cote: Okay and is that available to the public?

Mayor Newlands: No, that's not going to be available to the public. That's for internal use, for us to correct the internal issues.

Mike Cote: Okay.

Mayor Newlands: Thank you.

Councilwoman Jones: Before Mr. Cote sits down. This punch list that came to us, since the meeting last month a number of Cannery residents actually came to me and though they were thankful of what the Council is now doing with Heritage Creek, there are many of them that feel like redheaded stepchildren and there are a couple of ideas on this petition and I'm asking you now, when it might be time to conduct one of the suggestions here, which is have the Council ask Chestnut Properties to appear at the Council Meeting and supply a written time table to fix some of these matters on their list. An on site inspection of this list as it pertains to Cannery. Is it time... When is it time to bring this issue comprehensively to the Council to make a decision on doing something.

Mayor Newlands: As far as a workshop goes, I know they've asked us to hold a workshop out there. After we talk about Shipbuilder's today, I would like to set up a date to do a combined workshop so we hit both places on one day, so we can actually go to Shipbuilder's, inspect the property, inspect the building there and then go to Cannery and go to their clubhouse and maybe meet in the clubhouse, because it's a sizable area we

can get the public into and that way we can survey the streets out in Cannery, as well. So we would do that as an on-the-road Council workshop, in two different locations.

Councilwoman Jones: I think that's a great idea for fact collecting, but how do we apply that to getting the remedies? That's why I'm asking about a Council Meeting.

Mayor Newlands: I'm going to let Seth deal with that, because there are regulations that they have to follow and there are certain time frames they have to follow and there are certain things that they don't have to do until they're about to finish paving the streets.

Councilwoman Jones: And they, is the developer?

Mayor Newlands: The developer, yes, that's correct.

Seth Thompson: I did go back, I took the liberty of going back and pulling out some of your old sub-division ordinances and you guys have had performance; I'm not sure which audience member it was, they did call them guarantees; but they date back to the 80's. Even if this is under an old set of rules, so to speak, the guarantees were required back then. We also have the Clean Hands ordinance in place, now, so seemingly I don't know why it wasn't enforced before or if, indeed that really happened, that it wasn't enforced, but if they come in and they apply for any sort of permit, under the Clean Hands ordinance one of the responsibilities is to have the assurance of performance guarantees in place, so they seemingly shouldn't be entitled to get any permits or any approvals.

Councilwoman Jones: And it's my understanding that there's been no building in Cannery for the last year, which is that close to the facts?

Mike Cote: I don't think they've had any starts this year.

Councilwoman Jones: Okay.

Mike Cote: There were a few that finished in the beginning of this year but I don't think they've had any starts, but the previous year they had about a dozen, when the permits could have been withheld to get the guarantee and they weren't.

Robin Davis: Again, what they're doing is I think the most current one that was, the permit that was issued, they're selling the lots to Capstone and then Capstone is just pulling the permit, so Chestnut Properties, in essence, not the owner of the lot.

Seth Thompson: I see.

Mike Cote: But the principles at Capstone, including Preston Dyer and Joseph Reed are the principles at Chestnut Properties.

Councilman Booros: Go figure.

Mayor Newlands: We know that and we understand that, yes.

Mike Cote: So in other words we can just take it and...

Mayor Newlands: They're LLC's and unfortunately that's how LLC's run.

Councilwoman Jones: Are we committed so that we can do nothing.

Seth Thompson: I wouldn't go that far. Again...

Mayor Newlands: We're looking at changing the ordinance so that we can make sure that we get the streets paved at a certain point; so we've already been discussing that. Mr. Thompson and I have been discussing that, we haven't gotten it written yet, enough to come before Council. That's all.

Seth Thompson: The other possible avenue is rather than going the Clean Hands route, there's a possibility... I want to double check and see how the Code read exactly when they received their initial approvals, but rather than waiting for them to come in and apply for something, the town could approach them and say you haven't complied with this at this point.

Councilwoman Jones: Even larger than the bond or the guarantee that was not received, is this list of in some cases, damaged curbs, missing lids on pieces. Is there nothing we can do to assist them in even the smallest of items to get the developer to respond to the homeowner's there. Without a bond. I mean, just you're doing business in town, do business. That's where I feel locked in that if you're taking your time to do that and look into that possibility of the Council just approaching or asking that developer to come here to hear this. Is that out of...

Mayor Newlands: I don't know if we have the authority to ask them to come here and hear all this. I'm not sure what we can compel them to do.

Councilwoman Jones: I think we have the authority to ask them, doesn't mean we have the authority to make them.

Mayor Newlands: Right.

Seth Thompson: And certain missing elements could be violations of other portions of the code. Again we would have to deal with that on a case by case basis.

Mike Cote: The hydrants, the missing hydrant and the one that's questionable as to whether it works or not, those are public safety issues.

Mayor Newlands: We'll get those fixed. I think we need to move on.

Mike Cote: Are you going to call Ed next.

- k) Ed Kost, 230 Sundance Lane, Cannery Village: I was going to lecture you about what the ordinance says about performance bonds, but obviously Mike has taken care of that. The only thing I could add to that is remember you're going to discuss Shipbuilder's Village tonight, who has no performance bond; how much money you have ____ the taxpayer's according to that particular black hole. Let's not do it again in Cannery Village. Now, do you have authority? The second document I submitted had to do with the oath you took, the Town Charter. If you read Section 32 which deals with the powers vested in you as Mayor and Councilmen to order work to be done. You have the power now. You don't have to ask them to come here. You can simply follow your Town Charter, the powers you have to say you will do this. It's a safety problem. When you took your oath, it says here, that you shall perform faithfully and impartially the duties of the expected offices with fidelity. I didn't know what fidelity meant. I got my dictionary out and I looked it up. It says, fidelity, bound by a pledge. Faithfully, a sense of what is right and appropriate. Under the next section it says, you will protect our health, safety and welfare. We have a mess out there. We've had people hurt, falling over curbs and things. Ms. Patterson can attest to that. Her guests have had problems. We've had people's cars damaged driving around in here. We have streets flooding. We have a mess. It also says that you can define, prevent, abate and remove nuisances. I mean, come on, we live in the middle of a nuisance and we've lived there for eight years and you have the authority, you have the power. Your attorney if he goes through just the Town Charter and looks at the one section I quote, I wrote the whole thing out; I sat there for a little while typing it; it says you have the power. You can do it. All we want you to do is do it. We don't want you to spend the taxpayer's money. I don't want to spend my money. I want Chestnut Properties to spend their money, because they said they were going to spend it. That's all I want.

Mayor Newlands: And we will have a workshop on-site. We will make sure we do that in a very short few weeks.

Ed Kost: Thank you, I appreciate it.

Mayor Newlands: Thank you. Okay, it's almost 8:00. Next month we're keeping it to

three minutes each.

3. Call to Order – Mayor Newlands called the meeting to order at 7:55 p.m. and closed the Public Participation
4. Moment of Silence – Mayor Newlands
5. Pledge of Allegiance to the Flag
6. Roll Call – Mayor Newlands

Councilman Lester	Present
Councilwoman Jones	Present
Councilwoman Patterson	Present
Councilman Booros	Present
Mayor Newlands	Present
Councilman West	Absent
Vice Mayor Betts	Absent

7. Additions or Corrections to the Agenda
Mayor Newlands: Do we have any additions or corrections to the Agenda?

8. Agenda Approval
Councilman Lester: I'll make a motion that we adopt the Agenda.
Councilwoman Patterson: Second.
Mayor Newlands: We have a motion and a second to accept the agenda, as amended. All in favor say aye. Opposed. Motion carried.

9. Presentation and Approval of Minutes – July 2, 2012
Mayor Newlands: We have the minutes of the July 2, 2012 meeting. Does anybody have any issues?
Councilwoman Patterson: Yes, on Page 30, about half way down, the du du du du that's written in there, needs to be deleted. **I corrected the minutes.**
Mayor Newlands: Hold on.
Councilwoman Patterson: Sure. I think that was a typo.
Mayor Newlands: I'm still missing you.
Councilwoman Patterson: Page 30 of the draft, about half way down. It says Milton Crime. Milton Crime. And then du du du du.
Mayor Newlands: Gotcha.
Councilwoman Patterson: Then on Page 31 about halfway down again, Councilwoman Patterson, it says no, but I'm pretty sure I said yes. **I checked the minutes and you did say no.** The line doesn't make sense.
Mayor Newlands: So we just have that one word of No?
Councilwoman Patterson: Just that one word. I said No and it should have been Yes.
Mayor Newlands: Actually what she does is Helene will check the tapes. Yes, she does that and you'll see notes in it? She went back and she checked the tapes.
Councilwoman Patterson: Maybe I said Um, but it should have been Yes.

Mayor Newlands: She'll check. Okay.

Councilwoman Patterson: Thanks. That's it for me.

Mayor Newlands: Anybody else with corrections and changes? Can we get approval of the minutes for July 2nd, as amended?

Councilman Lester: I move we accept the minutes of July 2, 2012, as amended.

Councilwoman Patterson: I second.

Mayor Newlands: We have a motion and a second to approve the minutes of July 2, 2012 as amended. All in favor say aye. Opposed. Motion is carried. **(Mr. Mayor, you actually said July 12, 2012, but I know you meant July 2, 2012.)**

10. Discussion on Written Committee Reports

Mayor Newlands: We don't have any committee reports this month. Oh, you've got one? Before the Finance Committee report, is the Planning and Zoning Report. Does everybody have that? This is the Eagle Eye Development where they're saying no to the homes out there. They will be coming next month? Okay. Does anybody have any questions? Okay, let's go on to the Town Managers Report.

11. Town Manager's Report

Win Abbott: Yes Mr. Mayor. Just about everything that I have in my report has been and will be covered with the exception of the Prime Hook Comprehensive Plan. I referenced it in the packets that you all received and the 24 copies I put out for the public here. I encourage the public to go to the Prime Hook website and take a look at the Plan. There may be some impacts on the Town of Milton including mosquito spraying that may not happen as frequently as was before. Other than that, I think we have everything else covered.

Mayor Newlands: How are we doing with the water usage? I've only checked with Allen two weeks ago, that was the last time I checked. What's our daily reads?

Allen Atkins: We're below 500,000; we're in the 400,000 to 450,000 range.

Mayor Newlands: Oh are we, good. Good. Okay. I see somewhere in our package is that new meter's been put in... I keep forgetting the name of it, the one that monitors all the wells.

Allen Atkins: The 3G System that reads the wells.

Mayor Newlands: The 3G System, yes. And how is that operating?

Allen Atkins: Real good.

Mayor Newlands: Okay. Do you want to explain that now or later with the 3G System. Do you want to explain it now?

Win Abbott: Sure, I will, Mr. Mayor. Back in May when we were going through month by month and a better accounting of water use, I listed all the homes and businesses that had no meter or an outdated meter, whatever, that needed to be replaced and our progress towards that. I also mentioned a number of other goals that we had towards better managing our water system. One of them was a system whereby we can see the hour by hour activity of the pumping at every single one of our wells. The way that we currently do it right now and have been doing it forever, is once a day, 7:00 or 8:00 in the morning, a representative of our Water Department will go to the main facility where all three wells go to to have the water treated before it goes into our system and they'll read the number of gallons that passed through in the past 24 hours, which is indicative of the activity of the wells. However, with this system, we can see activity by the hour, every hour of the day, all the time, each morning and if we see a spike in activity at say 2:00 a.m., that would be indicative of the fact that we sprung a leak, somewhere during the night, because we usually don't use that much water in the middle of the

night. So it just helps us to keep our finger on the pulse of the water system in a more timely fashion, all the time.

Mayor Newlands: Okay, good, thank you. Okay let's go on to...

Councilwoman Jones: I have a real quick question.

Mayor Newlands: Sure.

Councilwoman Jones: Mr. Abbott, in reference to the budget, I know that you put out a request last week for a couple of open date options. I myself am getting a little nervous. I think we have to have another workshop and another Public Hearing. Where are we on that? Could you tell me.

Win Abbott: No I can't. You can talk to the Mayor about it.

Councilwoman Jones: Okay.

Mayor Newlands: The Finance Committee is going back to meet again next week, so we'll meet after they meet. There are some opened issues that they want to get fleshed out, so they're going to meet next Wednesday or Thursday, so we'll meet after that. We have until the end of September to get a budget approved. So we have plenty of time.

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

Mayor Newlands: We have the department reports. We have the Parks Department. Mr. Atkins, on your report on water, you said that we located water services on Atlantic Street from Round Pole Branch to Front Street.

Allen Atkins: Yes, we did. That's for the Tidewater force main they're putting in.

Mayor Newlands: The only part of that that's in town is the Key Ventures part; or did you do the houses next to Key Ventures?

Allen Atkins: No, we're coming from Front Street, back in towards Chestnut. We have water services in out-of-town houses.

Mayor Newlands: Oh is that right? Okay. That's where they are?

Allen Atkins: They're in the out-of-town section.

Mayor Newlands: Because we did this for Tidewater, so they could lay the sewer lines?

Allen Atkins: Yes, it's normal, what we would do for anybody.

Mayor Newlands: Okay.

Councilwoman Jones: This is for Tidewater's benefit?

Allen Atkins: No, no, it's normal. If you call in for us to locate a water line, we come out and mark it, if it's our water service.

Mayor Newlands: It's like when you call Miss Utility. They do the water side of it.

Councilwoman Jones: Call Miss Utility.

Allen Atkins: They call Miss Utility. Right.

Councilwoman Jones: I have one other item on the water side and that actually was prompted by some information that came out in tonight's public participation. If Corrosion Control inspects our towers once a year and Milton personnel inspects them once a month, can you tell me if records are kept by both the Town of Milton and Corrosion Control?

Allen Atkins: Corrosion Control and we also put it in a log book when we inspect the tower.

Councilwoman Jones: Because the chiming through town is that the rust could not have appeared in a matter of days and I hope that the outside consultant, that is paid, would have noted it. That would have been Corrosion Control.

Allen Atkins: These towers, in the summertime, sweat an enormous amount up in that area. The whole system is just moisture because of the temperature outside is greater than the water and you will create rust on all those... Those pipes get rusty from time to time. You just don't see a

leak until it really happens; this leak was big enough to really see. It had been welded before in that same area, six years ago.

Mayor Newlands: You have to realize that the pipe going from the base all the way up to the bottom of that bowl is insulated, so that wasn't visually seen, that rust mark. The only way we knew about it is when the water broke through and we actually had water coming down that pipe. That's why they go in once a month, just to make sure there are no leaks, so they couldn't see the rust area until they went up and pulled the insulation away.

Councilman Booros: Can I ask another question on that same note? Do you know when Corrosion Control last inspected the two water towers? The dates? The month?

Allen Atkins: Not off the top of my head. They did the 75,000 gallon tank earlier this year.

Councilman Booros: And they didn't see the concrete breaking up all around the base of the 75,000 tower?

Mayor Newlands: They did and they alerted us at that time, surely.

Councilman Booros: So that was when we determined that that was an issue?

Mayor Newlands: Yes.

Councilman Booros: Okay. So it was a year prior to that when they had inspected that one before?

Allen Atkins: Yes.

Councilman Booros: Okay and this one here you don't know the date?

Allen Atkins: No, not for sure; but they were here earlier in the year and did a wash out on a lot of these towers and this was one of them.

Councilman Booros: So would it be the same thing, where they would not, because of the insulation, they never would have seen the leak?

Allen Atkins: If it wasn't leaking at the time, they would not see it.

Councilman Booros: Well that rust didn't occur and if it was behind insulation, that rust did not occur in two days, which is what the newspapers said.

Mayor Newlands: I agree.

Councilman Booros: Well, Cliff, you put it in the newspapers.

Mayor Newlands: I agree with you.

Councilman Booros: It just occurred in the last day or two.

Mayor Newlands: The leak just occurred in the last day. We know that for a fact. We know that for a fact, because at the bottom of the tower, there's a pit, where the valves are to control the tower and the water hadn't crested the top of that pit yet.

Councilman Booros: So the rust hadn't broken through until the last day or two before we shut it down.

Mayor Newlands: That's correct.

Councilman Booros: But the rust didn't occur, that damage didn't occur, so could they not have seen that damage under that insulation either?

Allen Atkins: No.

Councilman Booros: So what kind of inspection are they doing?

Allen Atkins: There's insulation wrapped around this thing. They don't pull the insulation off of these pipes from the top of the face of the bowl to the bottom and you cannot see it physically; it's aluminum with this wrap around it with insulation in it and it wraps around the whole piece that they use.

Councilman Booros: That was a place where we had a prior leak fixed several years ago.

Allen Atkins: Yes, it was fixed six years ago.

Councilman Booros: So it must be a vulnerable place.

Allen Atkins: It is.

Councilman Booros: And there's no way that they can check that until it starts leaking?

Allen Atkins: Not really.

Councilman Booros: Okay. And we have copies of the maintenance records that our guys go in and inspect?

Mayor Newlands: Our logs. Do we have logs of when they...

Allen Atkins: We log in immediately.

Councilman Booros: Okay, thank you.

Mayor Newlands: Any other questions for the Water Department or the Project Coordinator? Okay let's go with the Project Coordinator, does anybody have any questions?

Councilman Booros: I've got a couple.

Mayor Newlands: One second, Councilman Lester you had asked me earlier today about job applications that Mr. Davis is looking at?

Councilman Lester: Right.

Mayor Newlands: These were the remains of the Code Enforcer job applications. This is earlier in June, so...

Councilman Lester: Okay. Thank you.

Mayor Newlands: Councilman Booros go ahead.

Councilman Booros: My questions were does the Project Coordinator do the billing with Dustan on the water tower every month? The water system, whatever it is? It's on there every week.

Robin Davis: Yes, any corrections that need to be done to water utility accounts, I handle. Yes.

Councilman Booros: Okay.

Mayor Newlands: Were you doing that before Sherry Jordan left?

Robin Davis: No. Sherry Jordan was doing that and when Sherry Jordan left, I think Stephanie Coulbourne and myself were doing them.

Councilman Booros: And the next question was the rezoning of the property up on 16; I assume that's the old ReMax Building and the vacant lot next to it?

Robin Davis: Yes.

Councilman Booros: That's the one discussed with the Mayor and Town Engineers? Is the Town Manager not involved in these discussions?

Robin Davis: At this level, usually not; sometime during the preliminary portion, it's just usually myself, or the engineer or the applicant.

Councilman Booros: Okay. And last but not least, right after our meeting, I guess it was July 2nd, the Town Council meeting, last month; you met with Heritage Creek; a follow-up call referenced the decision by Town Council to discuss, what did you discuss two days, three days after the meeting with Heritage Creek?

Robin Davis: It was just a follow-up of the decision that was made by the Council.

Councilman Booros: Which was to put it off until this month?

Robin Davis: And to see what they wanted to do and what their plans were.

Councilman Booros: Okay. Have you got any information for me?

Robin Davis: They're back.

Councilman Booros: Just wondering.

Mayor Newlands: Just so you know, we're starting next month, we'll start getting reports from the Code Enforcer; since we're working on June's reports right now; so he'll start with July next month. Anything on the police reports? We can go on to Finance.

Chief Phillips: Excuse me Mr. Mayor. I have something for the police.

Mayor Newlands: Oh, I'm sorry. I forgot that you have that.

Chief Phillips: I would like Cathy Jacobi to come up here for a minute. Cathy Jacobi is my Executive Assistant/Secretary. She's been working for us approximately 3-1/2 years and I would like to give her an award tonight for her remarkable tireless work, working on Nite Out this year and we just want to thank her for all of her hard work and couldn't make it without her.

Councilwoman Jones: Thank you very much.

Mayor Newlands: Thank you, Chief, I forgot about that.

13. Finance Report and Revenue/Expenditures Report

Mayor Newlands: Okay, Councilman Lester.

Councilman Lester: Now the State Auditor's Office has completed their work. They're forwarding their necessary work papers, etc. to the auditors that are working on September 30, 2011. They are scheduled to come into town, I think in September.

Mayor Newlands: The last week of September.

Councilman Lester: The last week of September, September 24th. I'm not sure why they're delayed, but at the same time, they're going to wind up September 2011 and then they'll be working on September 2012 and we should be back on track. They're a very good firm and they know that we want to get reports completed in a timely fashion.

Mayor Newlands: September 2012 should be done on time, correct?

Councilman Lester: Yes, that's what I'm saying, that should be and they know that's what we want. I'm not sure what kind of an opinion they're going to give for last year; they'll be in to talk to us about that pretty soon. I had some notes. I had gone through the Financial Statements with Mrs. Rogers, but in my rush to leave for here tonight, I left them at home, so if somebody has some detailed questions, I may have to get back to you.

Councilwoman Jones: I don't have many, but a question about the 2009 auditor report and maybe I'm calling it wrong, the consultants who came in. I was under the impression that you were hoping to get to a statement as of September 30, 2009, with the first group that was brought in? Was that ever realized? Did you ever...

Councilman Lester: No, the goal was not... Had we wanted to redo 2009, we would have had to bring in another firm and re-audit 2009 and given the fact that in this case, some of the assets were actually sold. It was in 2007 that the plant was sold, so not only was it 2009, if you're going to correct it, you had to keep going backwards and that would be horrendously expensive. The decision was by bringing in this other accounting firm was to clean up the end of September 30, 2009 as best they possibly could; so in order to go forward with some reasonable numbers; something that they could reasonably rely on, reasonably being the operative word.

Councilwoman Jones: So that was what Mr. Wagmen's group used?

Councilman Lester: To go forward, yes.

Mayor Newlands: Go ahead.

Councilwoman Jones: A question under Tax Assessment, under the Budget Transaction Audit Trail it shows as page two.

Mayor Newlands: Hold on. Where are you, tax assessment?

Councilwoman Jones: Half way down Tax Assessment. When the town conducts new dwelling assessments, is it done by the same group that did the town wide assessment for us?

Mayor Newlands: Yes.

Councilwoman Jones: Okay. Because there was so much, well there were a number of folks who came forward, whether or not copies of these assessments can go out to the homeowner's for their review?

Mayor Newlands: We publish them annually on line, before we do the appeals.

Councilman Booros: You publish the numbers. You don't publish how that number was arrived at and when I sat in the audience during that meeting, it was arrived at by if you had curtains or some sort of window treatments on your basement windows, he considered it a finished basement.

Mayor Newlands: Oh yes, which I thought was nuts.

Councilman Booros: Well, the thing is, these people don't know that unless they've seen what it was... Do we not have a requirement? He must have them? What would it cost to Xerox them and provide them in their tax bills?

Mayor Newlands: It would not cost anything.

Councilwoman Jones: And actually, that's the reason I asked the question, is because of some of the strange things that we heard during the tax appeals. Could they have been averted, well not averted, actually you're liable to open up the flood waters and other people come through if they actually see their assessments. That worries me.

Mayor Newlands: I don't understand.

Councilwoman Jones: That they may also be paying a higher assessment because they have curtains at their bare basement windows, as one of the homeowner's did that was assessed and they wouldn't know that.

Mayor Newlands: We could get their criteria. I don't see that being an issue.

Councilwoman Jones: But I'm saying, as a taxpayer, how do you know whether or not to make an appeal, if you haven't seen how your assessment was arrived at; that's what I'm saying.

Mayor Newlands: What I'm saying is we can get it and we can publish it on line, instead of sending it out, we can publish it on the town website. We can do that. No? You don't think we can do that.

Councilwoman Jones: Can you copy all that data off and that's what Robin's thinking about.

Mayor Newlands: Are you talking about...

Seth Thompson: You're talking about standards, Mr. Mayor, is that it?

Mayor Newlands: Yes, just the standards, that's correct. Just the standards, yes.

Seth Thompson: As opposed to each individual.

Councilwoman Jones: Well understanding how my assessment was arrived at, that's the document I'm looking for.

Mayor Newlands: That's on a card someplace and you can come in and inspect the card. We could put the information out there, that you're welcome to come in and inspect the card; it has all that criteria on there. I've done that for the County myself, for my own taxes. You can do that, sure. But we can't publish all that. It's all hand-written.

Councilwoman Jones: Okay, that's what I thought.

Mayor Newlands: Unless they have it in a database. Do they?

Councilman Booros: So, Mr. Mayor, from here on in...

Mayor Newlands: Hang on one second. We'll ask if they have it on a database and see if they do, then we can get the database, because we get a...

Councilman Booros: So from here on in, as this gentleman does a tax assessment on three new properties, or one new property, can we not ask him, or amend the contract to get him to give a copy of that assessment to the homeowner who's house is being assessed?

Mayor Newlands: We can make that a policy. We get it in Town Hall, so there's no reason we can't give it to them.

Councilman Booros: So we do get it. It's not like he's holding it.

Mayor Newlands: We get the card that they fill out and it's got all of the criteria on there and

whatever is...

Councilman Booros: That the guy has a finished basement or doesn't have a finished basement.

Mayor Newlands: Right.

Councilman Booros: I think the people need to see the card.

Mayor Newlands: Sure.

Councilwoman Jones: The other question I have, is just in the next line under Supplies.

Mayor Newlands: Hang on a second.

Councilwoman Jones: Okay.

Mayor Newlands: I have to get back to that page. Sure, go ahead.

Councilwoman Jones: Can you tell me what reimbursement to a snack cabinet is in administration, or is that just listed incorrectly?

Mayor Newlands: No, it's not listed incorrectly. Do you want to explain this snack cabinet?

Mayor Newlands: What they do is we have the snacks upstairs that somebody goes out and buys bulk, so we may buy a bunch of things at BJ's and if the guys want cheese and crackers, it's upstairs and they just put money into the a kitty up there.

Councilman Booros: Where do we show the income from that kitty?

Mayor Newlands: It's in revenue, someplace.

Councilman Booros: I'd like to see it.

Mayor Newlands: Okay.

Councilman Booros: Because, to be honest with you, the dates just...

Mayor Newlands: This is the date that they went out and purchased something, as opposed to when the money got deposited in the bank.

Councilman Booros: Okay.

Councilman Lester: Are we going to worry about that now?

Councilwoman Jones: I'm not worrying. I just asked for what it was.

Councilman Lester: This is simply a convenience for employees.

Mayor Newlands: Instead of running a vending machine. It's without the machine. Pretty much it's without the machine and it's the honor system, so...

Councilman Lester: This is not a gotcha.

Councilwoman Jones: Not a what?

Councilman Lester: Gotcha.

Councilwoman Jones: What does that mean?

Councilman Lester: It means somebody is trying to zoom, gotcha.

Councilwoman Jones: I just had never seen it before, that's why I asked the question.

Councilman Lester: It doesn't come up too often, because they don't have to replenish the money.

Mayor Newlands: Okay, let's go on. What else do we have? Anything else on the reports? Anything on the bank balances?

Councilman Booros: A quick... No necessarily out loud, but on the next page on that report...

Mayor Newlands: It's only on the microphone what's out loud.

Councilman Booros: Page number three, the top of the page, the third and fifth things down.

Mayor Newlands: Can you tell me the category?

Councilman Booros: Yes, I can tell you the category, Town Insurance.

Mayor Newlands: Oh, sure, okay.

Councilman Booros: Deductible.

Mayor Newlands: Yup the deductibles for the lawsuits.

Councilman Booros: Did we lose?

Mayor Newlands: Deductibles, it's lawyer fees.

Councilman Booros: I just saw those.

Mayor Newlands: August 23rd you'll hear.

Councilman Lester: It works a little like a car deductible. You pay the first \$100, just like an automobile deductible. If you have an accident, you maybe have to pay the first \$100.

Councilman Booros: I know how deductibles work. I was just wondering. We paid them, so I assumed something settled.

Mayor Newlands: No, we'll talk about that on the 23rd, but this is for ongoing work from the attorneys.

Councilman Booros: Oh, okay.

Mayor Newlands: As they're trying to gather information, do depositions, things like that, they send bills into the insurance company and they send us bills with the deductibles. Town Manager's financial report.

Seth Thompson: I was getting some looks. Those aren't my bills.

Mayor Newlands: No, those aren't his bills. It's a different Seth.

Win Abbott: You'll see the Town Manager's Financial Report after your Statement of Revenue and Expenditures. I break it down by General Fund Activity and Proprietary Fund Activity. I think it's self-explanatory. If you have any questions... It's just an analysis of the facts that you see before you.

Mayor Newlands: I have a question on page two for the Police Overtime. You combined the Highway Safety and regular overtime together?

Win Abbott: That's correct.

Mayor Newlands: Highway Safety is a reimbursable field. A reimbursable amount. Isn't it?

Win Abbott: I'm sure we still spend the money though.

Mayor Newlands: Right.

Win Abbott: So, like for example, when we go through the Town Manager's proposed budget, all grant receipts are actually shown as revenue and all expenditures are actually shown as the expenditure; there's nothing off the books.

Mayor Newlands: I just didn't get the reason it was put that way, but... You said it's an overrun, but if it's a reimbursable field, it's not going to be over. If it's a reimbursable item, it can't overrun.

Win Abbott: You can frame it any way you want Mr. Mayor. I'm just reporting the expenditures and did a report on revenues.

Mayor Newlands: Okay. Alright, it doesn't make sense to me. Alright. Any questions on the report?

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

a. Water System Improvements monthly update

Mayor Newlands: You published the Helpful Hints.

Win Abbott : Yes, Sir, Mr. Mayor. As a departure from what we've done the past few months, where we've been tracking month-by-month-by-month the number of meters that we've put in and we continue to do that; as a matter of fact, the Fire Department on Saturday just got their water meter and it was an expensive one to put in, but that's there and we have a couple of other commercial establishments that had larger meters that we had to order and those have been put into place, as well; but, in a review of the preliminary report before by Pennoni Associates, I got to dig a little bit deeper into our history and found an application for more allocation permit and one of the reasons why

it was declined, was that we didn't have a Conservation Program in place. All the things that we've been doing over the past six months are all the things that a Conservation Program is supposed to have; we just haven't packaged it as such. So this EPA flyer is a step forward in that direction. I imagine that by this time next month, I'll have articulated all the things that we've done and will continue to do, including references to our Building Code with water conserving devices being built into homes, as well. So this is just for public information and it will be a part of a larger package that we could share with Office of Drinking Water and say, yes, we met this requirement that you put upon us back in December.

Mayor Newlands: And we should get something like this published on the new website; we can figure out a section for the new website to get this up.

Win Abbott: Yes, Sir.

Mayor Newlands: Okay. Just for the public's information, Pennoni Associates will present on August 23rd at the Council Meeting. They'll present the packages they've been given at the Water Committee meeting. Did you send those out yet to the Council? Pennoni gave a presentation, didn't he at the Water Committee meeting?

Win Abbott: Yes and I did send them on to Council.

Mayor Newlands: Okay, thank you. And it's just for Council and the public's knowledge, we did meet with Artesian about 2-3 weeks ago, just to get information from them, given them information. They've put a little different twist on things from Tidewater. Tidewater does the right to do an inter-connect, which is one direction and Artesian would like to do a bi-directional inter-connect. They also do this in a couple of different towns throughout the state, where they do a bi-directional inter-connect and they also will help you build a water tower at 50% of the cost. They will put up 50% of the cost of the water tower and town maintains all of the infrastructure, all the water tower and everything else; they don't want anything to do as far as the ownership of the water tower. So that's a new twist to add into all this and we'll have them present to the Water Committee next time they meet.

b. Water Tower Repair Update (Shipbuilder's tower)

Mayor Newlands: Where that stands, is Baker Ingram Associates had a contractor, John Haynes come out and he came out and did the excavation and took core samples and we're waiting on the results of the core samples. Have you gotten anything else, Allen, from that?

Allen Atkins: No.

Mayor Newlands: So that's where we're at with that.

c. Shipbuilder's Village general update (maintenance, paving, land ownership, HOA)

Mayor Newlands: We're doing final research on the deeds for the roads so that we can make sure that the roads are deeded to town; that they're in town's name; and that we're getting reading to send an RFQ out for paving. The last RFQ we did was a year ago, I think, and it's old, so we need to get that refreshed. We have monies coming from the State Legislatures. We have about \$23,000 left from there. We have money from Municipal Street Aid from two different years to be used for road repair, so we have funds available to pay for that project without touching any of town funds. So it would all be grant money. Any questions on that? Okay.

- d. Request approval for the revision to the Record Plan at Heritage Creek Phase 2B
Mayor Newlands: Last month we got off on kind of a strange foot. We didn't have any presentation from anybody, so I don't know if the developer wants a presentation; go over what the changes are.

Mike Coven, George, Miles and Buhr: We're the engineer on the development. What you have before you this evening is a Request for Approval of a revision to a small portion of the development. It's called Phase 2B. I want to stress that this is a revision to an Approved LPD, a portion of it. It was originally approved for 425 lots; what we're asking you for this evening does not affect that overall density. There's no plan to change that. That will stay at 425 lots, total. There has been a change, a little bit, in the mix of units that are in this area, but this LPD was always envisioned as mixed housing types; there were always duplexes in it; there were always townhouses in it. So the character of the development itself, has not changed.

Unidentified Speaker: We would like a copy of the original...

Mayor Newlands: Excuse me, excuse me, let him do his presentation and we're not entertaining anything from the public, except for the one question from Mr. Oates; that's how the meetings are run. Thank you, go ahead.

Mike Coven: Our purpose here was to give them a little bit more manageable to work on and to keep the development moving forward to make sure that there wasn't a lapse in the momentum that they have going now, because you can't... All this infrastructure needs to be built and in place, before the houses begin construction; that stuff doesn't just appear overnight. So there is... I guess the other thing that they wanted to do is to change the mix-up a little bit, so we're asking to change the mix in this small piece of the development. I know of no valid planning reason why you can't have multi-families, or in this case duplexes and triplexes on the Boulevard. If we go back to the old plan, there was always a mix of units. It changed in this particular area, but there were always inter-mixed unit types and there's really no valid planning reason that I know of for that not to be true. So we're basically asking for... We've made this into a 7.21 acre piece now, that includes twelve single family homes, nine triplexes and six duplexes. The original Phase 2B was 50 units total, 30 single family homes, twelve townhouses and eight duplexes. So the plain fact here is that if you have a few more units in this piece, they need to come from somewhere else; we're not adding units; not adding density. That's why the Planning and Zoning Commission didn't see that as a significant change to the land plan. It's been reviewed by your staff; it's been recommended for approval by the Planning and Zoning Commission; they're a very professional set of folks. We're asking you to simply approve so that this development doesn't lose momentum.

Mayor Newlands: We're not doing anything with the clubhouse at all, at this point?

Mike Coven: No, Sir.

Mayor Newlands: Nothing at all with the clubhouse?

Mike Coven: No clubhouse.

Mayor Newlands: So this is strictly 27 units.

Mike Coven: That needs to come before the Planning and Zoning Commission as a Public Hearing and all that will have to be decided at that point. The parcel is included in this piece, because stubs need to be constructed for the clubhouse when it's built, otherwise we would have taken it out of this plan, altogether.

Mayor Newlands: Define stubs, please.

Mike Coven: Utilities, utility service.

Mayor Newlands: Okay, so you're running utilities up to the area, while you're there.

Mike Coven: Right, for storm drainage, for water, for sewer, just to make sure that all that's there when the plan goes into effect.

Mayor Newlands: And you're taking 50% basically over the original 2B and making it into a 2B.1, or something like that?

Mike Coven: Yes.

Mayor Newlands: Okay.

Mike Coven: That's really all I have for you.

Councilman Booros: Can I ask you a question?

Mike Coven: Yes, Sir.

Councilman Booros: So now that there are only going to be twelve single family homes in this area, 2B, as opposed to 30; no this is overall, right, for the rest of the community, or is this...

Mayor Newlands: It's half... 2B...

Councilman Booros: Where are the plans for the other half showing the disbursement of those single family homes that aren't going to be on this half? Are we disbursing the other half of 2B? The other seven acres?

Mike Coven: No. I would point out that the LPD did not prescribe a mix of unit types; the only thing that is prescribed, is the total density.

Councilman Booros: No, I understand that.

Mike Coven: So you...

Councilman Booros: So I'm just saying, so you've cut all these single family homes out of this particular; out of the 7.21 acres, instead of 14 acres; do you have a plan for the other seven acres?

Mike Coven: Not yet, no sir.

Mayor Newlands: Can you answer me a question? Originally you had 30 single family homes, 12 townhouses and 8 duplexes; what were the townhouses? Were they quads or triplexes, what were they? It's tough for me to look from all these little pictures.

Mike Coven: There were, it looks like, 1, 2, 3, 4 sets of duplexes and the same number of triplexes, I believe. I'm not...

Mayor Newlands: Because it says... You're using the term differently. You're saying duplexes and triplexes... In the old section... I'm sorry, when it was 14 acres total, you're saying 12 townhouses and now you're classifying them as triplexes, so I just want to know what the difference is.

Mike Coven: It's a little different product mix, but basically a triplex would be technically considered to be a townhouse; anything above two units.

Mayor Newlands: Okay. And the townhouses before were they three units, or four?

Mike Coven: There were 1, 2, 3, 4 sets of three higher up in this section. The green.

Mayor Newlands: So there were triplexes there before?

Mike Coven: Yes, Sir, not in the section that we're discussing right now, but in 2B.

Mayor Newlands: Right.

Councilwoman Patterson: I have a question because I just want to clarify. It looks like it's, is it Mariner's Cove, all the way... We're eliminating from the community center, all the way to it looks like the back edge of the property, where it's the community center.

Mike Coven: Yes, Ma'am.

Councilwoman Patterson: Okay. Because I can't quite see on the bottom there. I'm trying to figure out where the extra homes are coming for; why the density is becoming more

dense in this area and where you're going to be taking from to still maintain the 425 total unit count.

Mike Coven: I can't tell you exactly where they will come from, but they will have to come.

Councilwoman Patterson: So the community center square in the back; I'm looking at the old versus the new; and it looks like it's all the way... The red line dotting, the new section; community center green dotting here; is it just [garbled]? Oh, it's right to there. Okay. Okay. He answered it. Thank you.

Mike Coven: It's really just a different mix of product type.

Councilwoman Patterson: Okay.

Mike Coven: That will have to be accounted for in the next piece that we do.

Councilman Booros: As long as you do the next piece and our experience here in this town is, is the developer sells half the development to somebody; never finishes the next piece and what the people in Heritage Creek are stuck with, is the higher concentration of triplexes on their main boulevard.

Mike Coven: I understand your...

Councilman Booros: That is my one concern.

Mike Coven: I understand your logic.

Councilman Booros: That is from past experience.

Mike Coven: There actually was no requirement for the number of single families that are already there, to have been built in that phase...

Councilman Booros: I understand.

Mayor Newlands: The number of total units doesn't change, regardless of ownership.

Mike Coven: No, Sir.

Mayor Newlands: If the ownership changes, it's still 425.

Councilman Booros: If it sells to Dogfish Head, the number of total units changes, Mr. Mayor.

Mayor Newlands: That is true.

Councilman Booros: So that's where I'm coming from. The number of total units will change if the rest of the development sold and I mean, I think that's what these people are worried about also. You put it in the front end here; I see a lot of heads doing this; and I don't know all these people. Trust me, I don't know all these people. I'm looking at the lots that are on your original plan behind that and it looks like that the mix was said, up front. That boulevard was going to be single family homes going right up the boulevard, but I don't know anything about Planning and Zoning, so...

Craig Alamond, Tunnell and Raysor: I'm here with the developer. It is important to note that there has been significant momentum here in this development and in order to continue that momentum and not to leave, we need to have this infrastructure approved. This is just esthetics as he as demonstrated and everybody will benefit by just approving this, having the infrastructure installed and then just moving forward with the development, so that there is not a loss in time, the market is improving. As a real estate attorney in the County, I could vouch for that. It is improving and it's important that we need to allow this to move forward. The numbers are not going to change. The only way they will change is if there are further delays.

Councilman Booros: Hearing this from an attorney, I'm sorry. No disrespect, Seth, but... Whatever. I've heard you.

Craig Alamond: Thank you.

Councilman Booros: And everybody else heard you.

Mike Coven: Basically we're just... I'm not sure how I can allay your concern there.

Councilman Booros: Don't look at me, there are seven other people sitting here; six other people sitting here. I'm not the only one here that's got a concern, I'm sure.

Mike Coven: What concerns me is the implication that there's no place for a duplex or a triplex on the main road of the sub-division. Is that your contention?

Councilman Booros: No, but I don't have anything to... I was just looking at the information you provided us last month, with the pictures showing single family lots going up the main boulevard. And now, instead of twelve lots, whatever it is, there's a whole bunch more.

Mayor Newlands: This didn't change from last month. We gave out the same paperwork this month as we gave out last month.

Councilman Booros: Then you're misunderstanding what I'm saying, Mr. Mayor. I said I'm getting my information from the paperwork he passed me out last month, which showed 22 lots in that section; now we have 27 lots in that section. Okay, so it has changed; what you originally had and what you're showing us now has changed. I don't care about the mix and the rest of the neighborhood or the 450 houses; I saw a plan that showed single family lots going up the main boulevard to the pool. Now all of a sudden you're going to cram triplexes in there. Like I said, I don't know anything about Planning and Zoning, so if there's somebody here who can fill me in on that.

Mike Coven: I would disagree with your characterization of that. There's no valid planning reason for those not to be there. If you're trying to say that they should be tucked away, out of sight, somewhere; that's not an issue for...

Councilman Booros: I'm trying to say what I think when it was first approved, whoever approved it, saw those lots going up the main boulevard as single family home lots.

Mayor Newlands: That's correct and that's why they're here now, because they're changing that and that's what they're asking us to approve, the change.

Councilman Booros: Right. And I understand that.

Mayor Newlands: And that's what Planning and Zoning has approved.

Seth Thompson: If I could, I just want to walk through...

Unidentified Speaker: ...what we bought into...

Mayor Newlands: We're not taking questions.

Seth Thompson: I just want to go through a couple of things in relation to the Master Plan for the record. You said that the total number of dwelling units for the development has not changed. So we've got that. Is there any change to the parking requirements for each housing type? I take it that's not occurring here.

Mike Coven: That was accounted for in the plans that were submitted.

Seth Thompson: Right, the Master Plan, you're not seeking to amend the Master Plan as it relates to... And I'm just going down through our Code.

Mike Coven: No, Sir. No.

Seth Thompson: Okay, great. The accessory building requirements aren't changing.

Mike Coven: No.

Seth Thompson: The height, area and bulk requirements related to each proposed land use.

Mike Coven: No change.

Seth Thompson: The proposed landscaping, not changing?

Mike Coven: Not yet.

Seth Thompson: The proposed sidewalks.

Mike Coven: No sir.

Seth Thompson: The proposed street lighting.

Mike Coven: No.

Seth Thompson: Signage.

Mike Coven: No.

Seth Thompson: Open space?

Mike Coven: Ah. Yes.

Seth Thompson: This is a smaller portion, is that going to have an effect?

Mike Coven: I guess, that's a little difficult because there was a path through that section at one point.

Councilwoman Jones: I see that.

Seth Thompson: So is the actual, physical layout of the open space changing, or is the amount of open space changing?

Mike Coven: The physical layout.

Seth Thompson: Okay. Recreation facilities.

Mike Coven: No.

Seth Thompson: And then trash containment.

Mike Coven: No.

Seth Thompson: And Council, those are your stated requirements in your zoning when it comes to the Master Plan submission, so I know that there was a prior question in terms of whether this was something that's significantly altering the Master Plan that would trigger that Public Hearing requirement. Again, looking at your code's stated items, it struck me as something that didn't trigger the Public Hearing, because again the express items that are typically part of a Master Plan, that are required of the Master Plan, aren't significantly being amended by this. I just wanted to clear that up. I know there was a question about that earlier. Does everybody understand what I'm saying?

Councilman Booros: I understand what you're saying, but if this isn't a significant change, why are they here before us. Why didn't Planning and Zoning just approve this.

Mayor Newlands: It's a change to the Record Plan and we have to approve that at our level, as well. Planning and Zoning does it first, then we do it second, because it's a change to the Record Plan.

Councilman Booros: What's that change, the rewriting of the lot lines? I mean, what's the change?

Mayor Newlands: Hang on, Bob Kerr will explain.

Bob Kerr, CABA Associates: Mr. Mayor, if I can interrupt, Seth maybe if you took just a moment and explained Master Plan and Record Plan, because they're almost being used interchangeably tonight and they're not the same. This is a Record Plan review and approval process; not a Master Plan review and process.

Seth Thompson: Right, the way your Code sets it up, the Master Plan for LPD's is this overlay district; so it's kind of a higher conceptual level than your actual Record Plan in the various phases. So I think Mr. Kerr is correct, that they have somewhat been used interchangeably tonight. Again, we're really dealing with how these lots are going to be laid out. It's not a minor lot line adjustment, based on how our Code defines that. So, our Code doesn't have a great amendment procedure, but it's seemingly included in our regular major sub-division approval; in essence the same process would apply. It is an administrative process. That's the one thing that I want to be clear. Some things you have

legislative authority and it's a policy decision that you're making. Sometimes you have administrative duties that are more checklist items; making sure that the Code is being met. Some things are more discretionary. I certainly understand people's concern that they don't want to be sold a bill of goods. The only problem is, of course, when people buy property to develop it, they also see what rights they have based on the Town Code. That's why when we have a sub-division that's approved, the same set of rules continue to apply to that sub-division as it goes through the process, because the developers seemingly their rights need to be protected, as well, and there's a balance that needs to be struck there.

Councilwoman Jones: Maybe you can help me through this. March 14th Robert Kerr writes, because of the minor changes in the proposed new Phase 2B, he calls them "minor" changes. Recommends that a Master Plan revision not be required for Phase 2B. However, he indicates that we are going from 22 lots to 27. Okay? And Mr. Coven, in the minutes of March's Planning and Zoning meeting concurs with Mr. Kerr's comments and so I make an assumption here that both of you felt these were "minor" changes. What I can't get passed is 188-33 and perhaps you can help me through that; because it states "Town Council may approve minor lot line adjustments between two parcels for the purpose of small adjustments in boundaries, for recordation after review and determination of compliance with all applicable zoning and sub-division regulations provided no additional lots are created." I'm stuck there.

Seth Thompson: And again, that's not the section of the code that we're applying here; because this isn't a minor lot line adjustment. That would be if two neighbors...

Councilwoman Jones: I have a Professional Engineer who says it is a minor change.

Seth Thompson: I don't think he's using that term specifically... Mr. Kerr, I don't want to speak for you, but I don't think he was using the exact language from 188-33. I don't think that's what he was referring to, but I'll let him clarify.

Bob Kerr: I don't have the document in front of me and now I do. It was... We had had discussions at Planning and Zoning over what is a minor or major change to the Master Plan and I wanted to make sure that... I was trying to avoid this problem, this evening, by having Planning and Zoning confirm that it was not a major change to the Master Plan. Not that it was a minor lot line adjustment. It is not a minor lot line adjustment, because lots are being created, so it is a major sub-division review and it went through all of those steps. It wasn't a Master Plan major change, because essentially none of the streets changed, and the utilities didn't change from the original layout, in my opinion. The only thing was a change in the number of units in this particular part, but again, the Record Plan has a long list of requirements for this development in the LPD; specifically states 425 units is the most, so someplace there's going to be either bigger lots or bigger open space as this community is completed.

Councilwoman Jones: But given the diagram that we have this evening, and by Mr. Coven's comment, one of the things that is getting swallowed up by this phase is what looks like a community walk-through. It looks too thin to be some kind of a park, but it branches, at least, three blocks over the Boulevard and that has now been reduced to...

Bob Kerr: No, it has been eliminated.

Councilwoman Jones: It has been eliminated.

Bob Kerr: Yes.

Councilwoman Jones: It's been sucked into one of the houses.

Bob Kerr: In this phase. Yes.

Councilwoman Jones: Phase.

Unidentified Speaker: Will it come back in another one?

Mayor Newlands: Sir. Please, Sir. Please. Excuse me. I've asked you a number of times, please do not say anything.

Unidentified Speaker: Okay.

Mayor Newlands: They have a right to move lot lines and they have a right to move numbers of units.

Councilwoman Jones: And this is an outside of the box comment. We have quite a history, right now, with communities that we're having difficult getting finished. As we consider your request for a revision to 2B, Mr. Thompson, correct me if I can't even ask this question; what is the developer going to do to finish 2A and the problems that are cited by the residents?

Seth Thompson: I think the problem is that, that's probably going to just cloud the issue that's presently on the agenda; the application that is on for tonight. I want the residents to know that they've been heard, but again, we need to deal with the application that is in front of us now.

Mayor Newlands: We can't take that into account.

Councilwoman Patterson: I just want to clarify with the attorney. Because Planning and Zoning decided that this was not a major change in the Master Plan, there was no need to have a Public Hearing on this? Is that correct? Is that how that works?

Seth Thompson: I think that's fair to say. I mean, again... The problem is that your Code doesn't spell out what exactly is a significant adjustment, but I think you would be hard pressed to argue. I certainly understand that if you look at the small space that we're reviewing now, it seems to be significant, but you need to look at the Master Plan, which is the entire community; so that's really the measurement of the significance.

Mayor Newlands: And the number of units are not changing. They have to make up for that some other place.

Councilwoman Patterson: No and I understand that, but because it's such a large development, this is considered minor, because it's only 7.21 acres?

Seth Thompson: And because the number of units, overall, aren't changing and because none of the other items are changing significantly in terms of what you require in your Master Plan. That's... Going forward, one easy way to eliminate the confusion would be to remove the word "significantly" and then any time there's a change, the Code would automatically require a Public Hearing.

Mayor Newlands: And how often do we have changes like that?

Seth Thompson: I don't know. In my three years it hasn't been too often.

Councilwoman Jones: So part of the issue is you may not be bound, under the circumstances, to have a Public Hearing, but it's an evening and it's a notice and we could.

Seth Thompson: Right and again, this isn't... It's important to know that we're not under Title XXII. I don't think your LPD Master Plans require mailed out notices, the way a rezoning would. So, you know, it's difficult to... Sometimes we use terms, for instance we were just talking about the term "minor". It's important to understand what context they're being used in. When we talk about Public Hearings, most of the time we're discussing the 15 day newspaper notice and mailed out notices to residents that are within a certain area; but the way the Public Hearing term is being used in the LPD, there isn't that requirement. It would be as simple as noticing it as a Public Hearing and

then having public comment, accepting public comment.

Councilwoman Jones: And would that be Planning and Zoning's responsibility to hold that Public Hearing?

Seth Thompson: Well, again, it's not anybody's responsibility, the way the Code is currently written.

Councilwoman Jones: Okay.

Seth Thompson: People can always go above, but it would probably make more sense to do it... It's interesting, ideally Planning and Zoning does a lot of the heavy lifting, so to speak, on these issues. They tend to have the specialized knowledge, that sort of thing. That is truly a legislative decision that you guys could make, though, if you want to have the Public Hearing on the Planning and Zoning level, that's fine; or on the Council level, that's fine, as well. There are arguments for and against; but Council is going to be the ultimate decision maker, then maybe it makes sense to have the public comment, at the Council level; however, it might be helpful to have it at the very beginning when you're dealing with Planning and Zoning.

Mayor Newlands: Planning and Zoning has already made their decision.

Seth Thompson: That's right and at this time we're talking prospective. Again, there wasn't a need for a Public Hearing on this particular application.

Councilman Lester: So we could have a Public Hearing.

Mayor Newlands: On this particular one, no.

Councilman Lester: I think it's, in my opinion, I think it's only fair to have the residents opinions heard. We couldn't listen to them tonight and I think that give and take would be very useful. As far as the presentation tonight, if I had a gut feeling, I was certainly not impressed and comments by Council I found a tad disingenuous, so if it were up to me to vote for a hearing, I would vote for a hearing.

Mayor Newlands: But we can't do a hearing, at this point.

Councilman Lester: Right.

Seth Thompson: I think you have ninety days. Section 188 of your Code gives you 90 days to act on an application after it's been received from Planning and Zoning. I'm adopting the language that discusses major sub-division. It doesn't expressly say, and this also applies to your revisions to major sub-divisions, but the implication is there. You would have ninety days to do so. I think you received it in the middle of June.

Mayor Newlands: So we have ninety days to, say it again?

Seth Thompson: Section 188-32 says the Council shall act on an application for approval of a major sub-division which it has found to be in order within ninety days.

Mayor Newlands: So we have ninety days to act on it, but we really can't do anything else but that in the time period.

Seth Thompson: Right, and again...

Mayor Newlands: We can't have Public Hearings on this.

Seth Thompson: Well you could. You could always go above? Do you know what I mean? You could have a Public Hearing on any issue, if you wanted. But, the one thing, again, that I want to stress on this, is this isn't a rezoning where it's a legislative decision. This is really an administrative function that there needs to be proof that it's not out of compliance with any of the Code provisions, that sort of thing, but you know when people buy property and the Code allows them to do certain items, for instance, minimum lot sizes. You're not then able to say, I think we want bigger houses on here. If your Code provides for certain lot size, and they meet the code, and they meet all the

other elements of the code, you can't just willy nilly decide what can and can't go on there.

Mayor Newlands: So they've met all their requirements; they're not changing the number of units; they've been through Planning and Zoning; Planning and Zoning has approved this. We can't go based on what we think may happen in the future; what we think they may do. You can't live like that.

Mike Coven: Can I make an observation? I would say if the town decides at some point that they want to make any change to a sub-division plan, and go through a Public Hearing, I would suggest that the appropriate time to do that would be at the Preliminary Stage, before all the work is done. At this point, the Town Engineer has reviewed, all the outside agencies have reviewed and approved this plan. That's really the only point I was trying to make. I wouldn't argue that if you decide that you need to have these things go to a Public Hearing, that's one thing, but I would suggest to you that the appropriate time for that is at the beginning, not at the end of it.

Mayor Newlands: I said I would let Mr. Oates speak. Did we answer your question? Please use the microphone. I said I would let you ask your question from public participation at the appropriate time.

John Oates: I'm a little puzzled here. I probably don't even have the question or two to ask. Starting backwards, I thought at some point I there was going to be discussion of a construction road this evening. Perhaps that's off the table. I'm not sure.

Mayor Newlands: That was never on the table. That came up as a matter of discussion last month, that's all.

Councilwoman Jones: I have a follow-up about it, since it was on...

Mayor Newlands: Yes, but it's not pertaining to this.

Seth Thompson: Is it part of Phase 2B?

Councilwoman Jones: It was supposedly part of Phase 2.

Mayor Newlands: It's not part of what was presented to Planning and Zoning.

Councilwoman Jones: It was brought to Council last month.

Mayor Newlands: It was just a discussion point that came up last month. That's all.

John Oates: Alright, going back to where we should be at the moment, one of the things I'm puzzled about, or concerned about, is this apparent glossing over of the construction site 2B on the boulevard, where we're now going to have eighteen homes in the footprint of twelve. I think it's self-evident that these lots are going to be significantly smaller. I can't see any other way this can be done. These triplex units, I don't have any specs but I would guess they're probably 80' wide; you're going to have one on one corner, a duplex on the other corner, and four single family homes that remain on each side of the Boulevard will be smaller than those in the previous 2A. Now if I understand what Council is saying is that that is simply at the discretion of the builder.

Mayor Newlands: And Planning and Zoning.

John Oates: And Planning and Zoning. Now I believe it was CABA Associates who pointed out that the B Building, the footprint there is maxed out at 70% of the lot size. Am I correct?

Bob Kerr: The square footage of the building will cover 70% in, I can't remember if it water system the triplex or the duplex; I think it was the triplex, the center lot.

John Oates: That's correct.

Bob Kerr: I assume, but, that is a requirement that is checked by the Building Code People at the time they come in to get a Building Permit; the actual building that's

shown is as much for reference at this point, but it was brought up because it was right at the 70%; just so everybody knows that 70% is the max.

John Oates: Okay now is that based on the 2A the buildings that are being constructed in 2A? How did you guys know that the B footprint was 70% of the lot size? Do you have the specs on the lot?

Bob Kerr: Yes, they're part of the Record Plan. The Record Plan details the size of each lot, the number of square feet for each lot and if it's a triplex, the minimum I believe is 2,500 square feet; a duplex – help me out if I'm wrong, Robin – is 3,000 square feet and a single family homes is 5,000 square feet.

John Oates: Okay, my concern, of course, is when you have these six lots that were originally designated as single family homes and now you're going to put three additional lots on one corner, where the triplex is going to go. Each one of those components of the triplex has it's own footprint. If that lot is smaller to begin with, then the lots in 2A, then how can it be that the B footprint will not exceed 70%? The size of the components of the triplex, I'm assuming are the same, all along. 2A, 2B?

Mike Coven: I just don't see the relevance of this line of question? This has already been reviewed and approved by Planning and Zoning. It's just essentially esthetics.

Mayor Newlands: I think you're right. You're right. Mr. Oates I think this line of questioning you're asking... You initially asked about the density changing, but now you're getting into specifics with the engineer about sizes of units. We have rules as far as front setbacks, rear setbacks, how many units can be attached and he knows what the rules are, he knows how they apply to this plan and the building department will not issue permits if they don't comply with those rules. I think the questioning period is ending.

John Oates: Okay. One final clarification for my own edification and that is again, 188-33, the minor lot line section of the Code. Now, Seth explained why that did not apply, but I'm not clear on that.

Seth Thompson: Additional lots are being created. Truly the minor lot line adjustment very often will be between two neighbors, that might be doing a land swap to fix a fence that was built in... It wouldn't be something like this. Additional lots are being created so the application isn't being reviewed in that fashion, under that section of the Code. This isn't being considered as a minor lot line adjustment.

Mayor Newlands: He's saying that that section doesn't apply.

John Oates: I gathered that. Thank you.

Mayor Newlands: Thank you. Mr. Kerr, do you have any comments that you want to make?

Bob Kerr: I have no comments, but I'll answer any questions you may have, or attempt to answer them.

Mayor Newlands: Okay, thank you. So this has been before Planning and Zoning, it's 50% of the size of 2B that was on the plans before. We're not doing the clubhouse, we're not talking about the construction entrance and we can't worry about what's going to go on in the next phases. I mean, that's just not something that you can worry about. You can't...

Councilwoman Jones: I'm not worried about the next phase, I'm worried about the previous phase, I want to be clear about that.

Mayor Newlands: Well, we still can't... The current phase is on-going, they're developing it, like every other development they have some issues and they'll get

addressed and we have a Project Coordinator and a Code Enforcer to make sure that they get addressed. We can't make them finish the first phase before they do the next phase. They have to be ahead of the curve and be ahead of the time to get the infrastructure in, so that as they're putting their last buildings up in the first phase, they're ready to role in the second phase. It's a flow they have to be in and they can't finish all the buildings in the first phase and then stop everything while they get all their approvals and then start the infrastructure. Mike Coven can you tell me how long does it take for the infrastructure for this area? Or Ben, can you tell me? I just want to know how long it will be before you can put your first home on the lot?

Ben Gordy: Probably, if it were approved now, I would say probably close to six months by the time we got the bond posted and got construction started and completed on there.

Mayor Newlands: Okay, so you're talking February, March next year is the time you're going to break ground for your first house?

Ben Gordy: Most likely. We might be able to get started a little earlier, depending on if we can...

Mayor Newlands: I'm not rushing you. I'm just trying to give them a time line of when they can actually start building in Phase 2B.

Ben Gordy: That's a safe assumption.

Mayor Newlands: As they're doing that, they're selling and building in Phase 2A and finishing that off.

Councilman Lester: So basically we just rubber stamp this.

Seth Thompson: Again, it's an administrative review, so if they've complied with all applicable sections of the Code, honestly the applicant is correct that most of the work gets done at that preliminary phase.

Councilman Lester: Okay.

Seth Thompson: Typically, when you come to your final, there's been a series of checklists that were created at your preliminary phase that they needed to do and approvals that they needed to get from the various State agencies, and then normally it's more of a formality.

Mayor Newlands: And all of the checks that need to be done and all the measurements that needed to be done and all the square footage for open space, all that stuff is done in Planning and Zoning and by the engineers. I mean, none of us have the expertise to do any of that here. So, yes, you're right, it's pretty much a rubber stamp.

Councilwoman Jones: I have to agree with Councilman Lester in the point that it feels like, no matter what else may be dangling in whatever phase in this community, we're looking at a request for a new portion of their community, the developers request for revision to the Master Plan.

Mayor Newlands: Record Plan. Record Plan. There's a difference.

Councilwoman Jones: Record Plan. Excuse me. It feels as if when Planning and Zoning sends that forward with an approval that Council has no choice. And my complaint about that is, whether you call it a Public Hearing or not, I just question if during the March meeting of Planning and Zoning, for which we have minutes, and when it came back again for approval; even if you don't want to call it a Public Hearing, did the public have the opportunity to speak in opposition or in confirmation of the developer?

Mayor Newlands: They've had the opportunity in front of two Council Meetings to speak at public participation, which they've done.

Councilwoman Jones: But that's not what I asked.

Mayor Newlands: But that's what they've had the opportunity to do.

Councilwoman Jones: But Planning and Zoning afforded them no opportunity to speak on behalf and go with what the developer wanted or oppose it. That's a fact. Correct? I don't want to call it a Public Hearing. I'm just saying that after the applicant has made his statement, the public was not addressed by the Chairman of Planning and Zoning and asked if there was anybody there who wished to speak on behalf of the applicant or in opposition to the applicant.

Seth Thompson: I didn't go back to look to see in those minutes, if that occurred, but it's important to understand that we're dealing with the context of a revision here. All of what was done when it was initially approved, when it initially went through the subdivision application and process; so again we're in somewhat of a different scenario, because this is a revision to a small section of a large Master Plan and it's just revising the Record Plan.

Councilwoman Jones: And it may be, but it does affect others; because there's an existing community there and not wishing to dip back into that again, there just seems to be a consideration that we're not extending to the present property owners.

Mayor Newlands: Our rules allow for this, and that's what we have to live by. Our Rules and Regulations allow for this. This Master Plan was approved in 2005, 2006; 2004, a long time ago.

Councilman Booros: Mr. Mayor, what I have a problem with here is the fact that I think that our position as Mayor and Council brings to a higher standard than just rubber stamping anything and if the rules allow this, then it should have ended right there at Planning and Zoning and never come forward to me to ask me to rubber stamp something, because I have read the minutes of all those Planning and Zoning and I have talked to people on that committee since then and asked questions that were not asked by the people on the Planning and Zoning Committee. I don't know anything about the people on the Planning and Zoning Commission; what their backgrounds are, what qualifies them for being on that committee, so they can do all the heavy lifting they want to in that meeting, but I've read the minutes and there were questions that weren't asked. Okay? So to tell me that all I am is sitting up here as a rubber stamp, when those people out there, the people in this community, have put me in this seat, I think I deserve more than to be a rubber stamp, quite honestly. So if the Code needs change to do away with the little rubber stamping, then let's change the Code. That's not what I'm sitting in this chair to do. I'm not going to have some lawyer stand up and try to intimidate me into rubber stamping something. Not going to happen. Especially, Mr. Mayor, because I knew he would be here in advance and I'm going to assume that you and our solicitor knew he would be here in advance.

Mayor Newlands: I have no idea who's going to be in the audience.

Councilman Booros: Oh, I did.

Mayor Newlands: Okay, I didn't. That's fine. We're here to approve the technical plans and the technical changes to this development.

Councilman Booros: We're here to approve? What are we here to do, Cliff?

Mayor Newlands: We're here to vote on this.

Councilman Booros: We're here to vote on it; we're not here to approve anything. That's where I have a problem, Mr. Mayor.

Mayor Newlands: We're here to vote on it. We're here to vote on it.

Seth Thompson: I recognize that I'm at this point repeating myself, but it's very

important to understand the difference between an administrative role and a legislative role. In your legislative role going forward...

Councilman Booros: You don't have to explain it. I understand exactly what you said. Okay?

Seth Thompson: Okay. If it's a concern, we can deal with it going forward; so that we don't arrive in the same situation.

Councilman Booros: And that's what I just said to the Mayor, so we don't end up in this situation again, because I wasn't put here to rubber stamp anything.

Councilman Lester: We're talking prospectively and I don't know how we vet people in the future that volunteer to sit on the Planning and Zoning. They are volunteers.

Councilman Booros: I understand.

Councilman Lester: They give their best efforts and you can't... Like this Council, there are times when you may think after the Council Meeting, oh my gosh, I could have asked X, Y and Z, but I didn't do it.

Mayor Newlands: Right.

Councilman Lester: Or I didn't think about. So you can't condemn the Planning and Zoning for not asking all the right questions.

Councilman Booros: I'm not condemning them. I'm just saying that I shouldn't be asked to rubber stamp something they did, when I wasn't allowed to be in their meeting and participate in their meeting, or hear what was said. I'm allowed to read the minutes, apparently, but I'm not allowed to attend the meetings; which is an interesting twist.

Seth Thompson: No, you're allowed to attend the meetings and if you want to have input as a private citizen, you can; I think the problem with that is often that you then forfeit the ability to vote on something.

Mayor Newlands: Oh, is that right? That's new to me. If you attend a Planning and Zoning meeting, you forfeit the right to vote on it?

Seth Thompson: Well, think about it in terms of an appearance of impropriety, that if you had some sort of interest that you felt strongly enough to participate in making a public statement and making it abundantly clear that you are acting on a personal level; I think that's probably prima facie evidence of having a personal interest in the outcome of the matter, which then would be a disqualification...

Mayor Newlands: Okay. That's only if you participate. If you're just a witness, or just in the audience...

Seth Thompson: Meetings are open. People... Right.

Mayor Newlands: Right. Thank you.

Councilman Lester: Mr. Mayor, if I may make a motion maybe we can move on. I make a motion that we approve the revision to record the plan to the Heritage Creek Phase 2B.

Seth Thompson: Is that going to be conditioned upon receiving a bond?

Councilman Lester: Conditioned upon receiving a bond.

Mayor Newlands: Thank you.

Councilman Lester: Yes, thank you, Sir. See.

Mayor Newlands: It says bond required, right here.

Councilman Lester: Yes, okay. Do I have to restate the motion, or was that okay?

Mayor Newlands: No, that was fine. I'm just waiting for a second. I think it would be a shame if we don't push this through, put this through. I think this should be put through.

Unidentified Speaker from the audience: [garbled.]

Mayor Newlands: Please, Sir. Going once. You look like you're about to say something.

Councilwoman Jones: I make a motion...

Mayor Newlands: Hold on, you're in the middle of a motion.

Councilwoman Jones: I thought that was dead.

Mayor Newlands: We haven't killed the other one. Once it's dead, we don't do another one, do we?

Seth Thompson: You can have another motion, but I take it there's not a second to the first motion?

Mayor Newlands: Okay. No.

Seth Thompson: Okay, so then it would be appropriate to have a second motion.

Mayor Newlands: Go ahead.

Councilwoman Jones: I make a motion to open this subject up for a Public Hearing.

Councilman Booros: I second that motion.

Mayor Newlands: We have a motion and a second to open this Heritage Creek Phase 2B for a Public Hearing. Let's do a roll call.

Councilman Lester	No
Councilwoman Jones	Yes
Councilwoman Patterson	Yes
Councilman Booros	Yes
Mayor Newlands	No

Mayor Newlands: Motion is carried. Okay.

Seth Thompson: Ninety days from Planning and Zoning – I think you need to consider it...

Councilman Booros: I'm available any day.

Councilwoman Jones: I couldn't make it...

Councilman Booros: I'll be there.

Seth Thompson: Well you have an additional meeting this month.

Mayor Newlands: We have a meeting on the 23rd, yes. The Public Hearing would have to be before that meeting. We also have a presentation at that meeting for the water system, Pennoni, but we could that before that. Now we can do a vote on... We could put that for Public Hearing on the 23rd of August and then put it for a vote on the 23rd of August, as well?

Seth Thompson: Yes. You could set up the meeting so that you receive public comment. I don't know if you want the applicant to have to come back, as well. They might want to just so they can address...

Mayor Newlands: I would want the applicant back on the 23rd. So we're going to do a Public Hearing at the beginning of the meeting; and then during the meeting on the 23rd, we'll do this exact same exercise and get a vote on this.

Seth Thompson: And you'll take written comments received beforehand?

Mayor Newlands: Beforehand, yes. And they'll go to Robin Davis. Just typed up is fine. We don't have a form for a comment. A letter is fine. Okay.

- e. Bank offer to sell Town seven Shipbuilder lots with the clubhouse

Mayor Newlands: The bank offered to sell the lots and clubhouse of Shipbuilder's.

Artisan's Bank approached town with the possibility of selling the clubhouse and seven building lots within Shipbuilder's; that's the right portion of Shipbuilder's where if you

come out Shipbuilder's Boulevard, it's the open space and the clubhouse on the right hand side. It's a total of three acres. It's seven building lots. The clubhouse, by the way, straddles the end of one of the building lots, I think; so it's really; you couldn't keep that building as it is and try to sell it without breaking up that building and the lots, so... The clubhouse is being cleaned right now. Somebody gutted part of the building. Somebody took out the light fixtures, the kitchen, bathroom fixtures. The bank has the deed to the property now from what we understand, so they're going to go in, clean it up, gives us keys to it, so we can have a workshop out there. Mr. Abbott and Mr. Davis and I have been in the building, so it's not a bad size building. It's a pretty decent size building. We'll get more on the specs of that building. We are requesting an appraisal. We've sent out a separate appraisal. The bank appraised it at somewhere around, I think, \$325,000 for the property and the clubhouse. Generally, from my understanding, and you can correct me Mr. Thompson, when they go for foreclosures, they generally use 48% of the appraised value for the foreclosure amounts, that's where they generally start their auctions. We were given a price of about \$200,000 and they were kind of flexible on that. Steve Himmelsarb, who's the owner of Clipper Square Mall, he's agreed to, or offered his services to help us negotiate for the property. So sometime between now and then we have a possibility of being able to get in there and have our Council Meeting on the road, basically there, and in Cannery Village. And we don't have a hard date of any kind for August 23rd. I just put that down as our next meeting. We don't have any hard dates or time to buy anything. I don't think there's any other competitive buyers out there for this property. They just approached us because they figured it would be a good fit for us to do something with it and one last thing, they will hold the mortgage on the initial price and whatever renovations we do to the building, or additions, they will hold the mortgage on that, no money down. And we don't have that in writing yet, but we will get all that in writing.

Councilwoman Jones: Mr. Himmelsarb, his gracious offer to negotiate for the property. What is his interest in that? Could you tell me?

Mayor Newlands: I don't know the man. Councilman Lester does.

Councilman Lester: He's my landlord and for whatever reasons, he's very much interested in Delaware, in the Milton area, so he owns the property that we rent and he owns several other properties in the area and he has a strong real estate background.

Councilwoman Jones: Do we have any kind of, for lack of a better term, collateral when we start to do the pavings and improvements out on that property, to go against an asking price? Do we have anything on the books?

Mayor Newlands: Collateral against what? Other than the pavers guarantees to us.

There's nobody that owns... Are you talking about the three streets we're going to pave?

Councilwoman Jones: Yes.

Mayor Newlands: Everybody's walked away from it, over the years. We don't think anybody owns those streets. We're going to get them put in our name.

Councilwoman Jones: Right.

Mayor Newlands: Okay, so the only guarantor is us. That's it. That development's been through three or four builders and as the lots were being sold; just the lots were sold, not the streets; so there's nobody who owns the overall development. Like Wagamon's West Shores, where I live, we had one developer. He owned the entire development. As he sold lots to builders, they took the individual lots. At the end he deeded the streets to the town. There's nobody in that position to do that out there.

Councilwoman Jones: So the developer that went bankrupt, is not someone who would have had responsibility to pave those three streets, if they were still in business?

Mayor Newlands: We can't really tell and the strange thing is, he owns the right hand side of Shipbuilder's Boulevard. The streets that need to be paved are on the left hand side, so yes, it's kind of crazy, but Robin can give you a little bit... You know what, we'll get a history printed out for everybody, for Council, before the workshop. That way you can see who sold what to whom, because it's an interesting... He's been doing... These two guys have both been doing lots of work, basically doing title searches and other searches and looking at deeds as to who sold what to whom and it was really what we've come down with the last two weeks is that building lots have been mentioned in all of the deeds; never roads. So that kind of fell by the wayside, somewhere along the line and we're going to inherit them.

Seth Thompson: Part of the problem is that the practice before wasn't to separately deed streets. That's a more common concept now; whether they're getting deeded to the town or whether they're getting deeded to the Homeowner's Association, or if they're going to be privately owned. That sort of thing. But that wasn't always the case, which makes it a little more difficult.

Councilwoman Jones: Do we have a case where streets are actually dedicated to the Homeowner's Association?

Mayor Newlands: Not to the Homeowner's Association, but to the town. Wagamon's is dedicated to the town, Cannery Village will be, Heritage Creek will be; because there's a person there responsible for the entire thing; whereas in Shipbuilder's, groups of lots were sold independently to different builders.

Seth Thompson: I guess I was speaking more generally, in terms of the practice in the area, not necessarily the Town of Milton.

Councilwoman Jones: Okay.

Mayor Newlands: So that's where we are with Shipbuilder's Village. Any questions from anybody? You had offered tennis courts and covered tennis, at one point.

Councilman Booros: There are some people that are interested in like doing something for the town. I know two or three different people and the one gentleman passed away, but he was looking into doing something...

Mayor Newlands: Yes, I've spoken to Barbara Carrow, Milton Carrow.

Councilman Booros: But there's apparently grant money out there for tennis courts, to put bubbles on tennis courts, so that you have year-round tennis courts. The money is out there. So.

Mayor Newlands: Okay. It's something to look at. Okay.

f. Media Communication Policy

Seth Thompson: I attempted to make some revisions and incorporate some of the comments that I heard last time. By all means, critique away. I haven't been able to get up with the Chief in terms of maybe putting a little more specific language. As I mentioned at the last meeting, sometimes it's helpful to look at categories of offenses. That could be a very easy way to address this concern of over information; or too much information; but the Chief brought it to my attention that there might be some misdemeanors that would seemingly go to public safety and maybe they need to be included as well. So I put in there, trying to break up the reporting elements, incorporating that Neighborhood Watch concept, as well as a mandatory reporting for

felonies, but that's, if anything, I was just trying to let people know how you might structure it. It could be that you say felonies and misdemeanors, Class A, B and C or something to that effect or you can name them individually; it really doesn't matter to me, but just to conceptually see how it could be handled, but that was just one idea I had.

Mayor Newlands: Yes, but we have wanted people... I'm sorry, you go ahead.

Chief Phillips: The problem you're going to have is if you have missing persons and it's not really a crime classification, according to the way it is showed now, I can't do a News Release and say that you're wife is missing, at all, because the Council says I can't do that. Or if we have a runaway girl or a child or a missing child, I can't do that either, the way it's posted. You know.

Mayor Newlands: And if we're looking for suspects for crimes we don't...

Chief Phillips: Right, if we're looking for suspects, or you know... If we have a Peeping Tom or something like that, I can't even let you know that, because it's not a felony.

Mayor Newlands: Not getting into the classification of the crime, because I'm not at all qualified to do anything about that, to talk about that, but I look at the 20 or 30 arrest reports, press releases, that the Captain sent me today and one thing that stuck out was the bail. If we did it after it was a certain amount of bail, like \$1,000, something like that, then we could maybe use that, because the minor ones were the \$75 ones; things like that. I'm wondering if we could do it and still include missing children and wanted people.

Chief Phillips: That sounds fair. I mean like violations, we don't do violations; we wouldn't do violations, whether it's tall grass or walking at night or a traffic ticket, or something like that; those would not be in there, but any kind of misdemeanor, depending on how important it is to the public, would have to be in there, like a missing child, if they ran away, or disappeared, or if your wife is missing; we don't know how they're missing until we find out that a criminal act has taken place. We need to be able to get that information out there; just like if we have a Peeping Tom; or whatever we have, we have to be able to get that information out there. There have been times before we've arrested subjects for drugs or burglaries and next thing you know, we get phone calls from people saying that guy lives in my neighborhood. I think he did ours. Next thing you know, we talk to State Police or anybody else and we solve more burglaries because we get input from the public. So getting this information out is very, very, very important to the public.

Seth Thompson: Are there occasions, just thinking of tying it to the bail amount, are there occasions where you need to do a press release, and there hasn't been a bail amount set because the person hasn't been brought in front of the magistrate; that's one concern I have.

Chief Phillips: Well if we have a domestic violence where it's offensive touching, where Mr. X punches his wife in the face, and we have warrants for him and we can't find him, we have an obligation with domestic violence to move as quickly as possible and get him into custody as quickly as possible. If we have to do a News Release, put his face out there and it's a misdemeanor, it's a misdemeanor and we have to do what we have to do, but if we do nothing, we're going to get ourselves sued eventually because next thing you know he comes back and kills her, they're going to say well what grounds did you take to try to find the guy? And we're going to say we've got a warrant for him, that's all we got.

Seth Thompson: I guess to just piggy back on that example, if you haven't found him there wouldn't be a bail set? Would there?

Chief Phillips: No.

Seth Thompson: So, I don't know if we could tie it to that, that's my only concern.

Mayor Newlands: I'm just saying that in addition to some of the others, like missing children, wanted persons...

Seth Thompson: Okay.

Chief Phillips: Any type of violation, like a traffic violation, I mean it could be a DUI, but it may not felony, but...

Mayor Newlands: Right, that's why I didn't want to use the felony, because it could be something different. I'm just trying to find some threshold to use to say let's look at these, because after the 30 or so that the Captain showed me today, I mean only today, it seemed like a place to get rid of the little things on the bottom, you know?

Chief Phillips: Well if he stops somebody for unpaid speeding tickets, we could forget not doing a release on that, like we have in the past, but if they're wanted for some sort of burglary or if they're wanted for some sort of domestic violence, I think we have an obligation to let the public know that.

Councilman Booros: To let the public know that you've already got him?

Chief Phillips: That's correct. Or make the arrest our self, if it's our case. Yes.

Mayor Newlands: What I would ask the Council to do is go to the Cape Gazette and they have an archive page and you can browse the archives and go in and see the Police Wrap-Up Reports and we're not in there every week. There could be...

Councilman Booros: We haven't been in there a lot lately.

Mayor Newlands: We haven't been in there a lot, because somebody's been...

Councilman Booros: But there was a point, Mr. Mayor, where we were the only ones in there, week after week after week. So you can say right now that we're not in there...

Chief Phillips: No disrespect, Sir, but that is not true. That is not true.

Mayor Newlands: Hang on. Hold on. Councilman Booros, I'm not saying recently, I'm saying go back and look at the beginning of the year, or go back and look at last year and look at the archive and look for that page and you'll find that we're not in there a lot.

Councilman Booros: I don't need to know that you stopped a guy for speeding and he had a warrant and you arrested the guy because he broke into a house in Seaford. I don't need to know that as a member of this community. If you stopped him for speeding up Atlantic Street, on a radar thing, I don't need to know that.

Mayor Newlands: We don't publish those.

Councilman Booros: Did you just hear what the man just said? If I stopped somebody for speeding and he's got a warrant and I arrest him, because he had a warrant out on him, we're going to publish it.

Chief Phillips: Here's the problem you run into with this. Let's say they are wanted by Seaford. We make a traffic stop. He turns out to be wanted. We draw our weapons, take him to the ground, because he strangled this lady, it's a felony arrest; the people in the public are going to be going by and saying what the hell happened? We're going to say well we can't tell you, sorry. Council says we're not allowed to talk about it; we can't do a News Release. The public then is going to go to rumors that's going to be rumors about this, why we did this, why we did that. In my opinion, I've been doing this for 25 years, and in my opinion it's going to cause more confusion and more problems than a little bit.

Mayor Newlands: Excuse me in the back. Please. Or you leave.

Chief Phillips: But whatever the Council votes to do, I'm a good soldier. I will follow your orders.

Councilwoman Jones: I applaud you for looking for that threshold somewhere, but I don't think the bond or, I don't think that's the threshold to use. It does now and it has always come down to common sense. It comes down to what is important to be released for the safety, health and welfare of the citizens of the Town of Milton. And that's as close a baseline as we can all jump off on at one time. What differs is you're describing censorship; that is not what the Council is attempting to do here and we need to let that go. Censorship is not it.

Mayor Newlands: I'll back off of censorship, if you put a threshold on something and we can come to some common ground as to what the threshold is.

Councilwoman Jones: Responsible reporting is my threshold. Other agencies do it. We can too by putting some minor pieces in place. As I had recommended to Mr. Thompson, shoot, we already have under the Town Charter, the Town Manager's responsibility to maintaining a sound public information process in the town. That puts him in the lead, because I can't find anywhere else where it names the public information official.

Mayor Newlands: Yes, but he's not qualified to determine which reports go out and which ones don't.

Chief Phillips: He has no access to the crime reports or the warrants.

Councilwoman Jones: I understand. I understand that, but inclusion in what you want to put out, running it through your Town Manager. He is a fair barometer and he is empowered by the Town Charter to do that.

Chief Phillips: I've been doing this job for 25 years, so I think I'm a little more qualified to make that decision. As far as traffic things go, we can work that out. I have no problem with that. It goes back to, if someone vandalizes a church and we have a suspect and it's not a felony, are we going to go after that person because his pictures is on the billboard?

Mayor Newlands: Tomorrow I'll discuss with the Chief and Captain about using a threshold and then I'll email you all what they sent me today, what the Press Releases... They're releases from last year. It's not that there's anything secret.

Councilwoman Jones: That would have been helpful tonight.

Mayor Newlands: I just got that this afternoon, so that was something that the Captain just was able to give me.

Chief Phillips: How, exactly does Rehoboth do it?

Councilwoman Jones: How exactly does Rehoboth do it? It's a decision made by one of the two public information officers; that would be the Chief of Police and the Detective. I have not known of a case where the Detective takes the lead in a media release without discussing it first with the Chief of Police.

Chief Phillips: I assure you that all the News Releases have my authority.

Councilwoman Jones: I understand that. I understand that. My point is we are talking about responsible release of information. As it pertains...

Chief Phillips: No disrespect, but we're talking about censorship in segments of who gets what.

Councilwoman Jones: That is disrespectful, as I just said to you it's not censorship. I don't want to argue with you.

Chief Phillips: Sure it is. When you decide, when someone decides who gets what, that is not fair.

Mayor Newlands: Let's... I'm sorry, but I agree with him. If we don't have criteria and you're making it that they...

Councilwoman Jones: I didn't say not to have criteria.

Mayor Newlands: Well that's what I'm agreeing with. I will agree that we will not call it censorship, if we have a criteria and I will send you what the Captain sent me, that way you could look at it. You need to look at examples. You can't just make up and say we're not doing A, B and C in this room. We're not doing Class A felonies, we're not doing Class B; because quite frankly I don't know what a Class A and Class B felony is, okay, and I'm not making that decision based on that. I have no idea what that is. Even though I've been on the job 2-1/2 years, and talked to the Chief a lot, I still don't know what it is, because it's not something that I need to worry about in my daily job.

Chief Phillips: I do understand what you're saying about the traffic arrests and the wanted for _____, I do understand that and I can take care of that.

Mayor Newlands: Right and that's why I think if we can use a threshold and I'll talk to the Chief and the Captain about it tomorrow and then we'll get it out to Council and we'll see if that works. You'll see what kind of releases will go and won't go.

Councilwoman Jones: What report are you going to bring back, since you're the only person talking to the Chief about it.

Mayor Newlands: I'm going to pass you what the Captain passed me today, which is about 30 Press Releases from the past year and a half, just so I had a sense of some of the things that we may or may not want to put out. Unless we have that in front of us, and we see what we're going to publish and not publish, you really can't make a decision on that. You're making a decision on something that we have no idea what they're publishing. You're basing it, based on what they put in the paper. What they put in the paper, no disrespect Nick, but what they put in the paper is what they want to put. They pick and choose from the Press Release, so I'll give you what we send them, what the Police Department sends the press and then you'll say from that, okay fine, I think these should go, these shouldn't go, based on whatever criteria. For us to sit here and legislative this based on information that we don't see, is wrong.

Councilwoman Jones: I find that if you release your statistics to the press, the press will light on what interests them and they'll contact you back.

Mayor Newlands: Well Rehoboth hasn't been doing that lately. They've been going right to the press with all their...

Councilwoman Jones: Not with all. That's a blanket statement.

Mayor Newlands: With whatever criteria they use, they're doing it. We need to have a criteria. Okay?

Captain Cornwell: Can I ask you when you just said that, you give them the information and they contact you and they will print what they contact you about. Do you have knowledge about that, because I do all the Press Releases and I see a lot of them that go in, but I was never contacted about them, so I'm not sure you get that information from.

Councilwoman Jones: That's a reporter's discretion. We release, we, Rehoboth Beach releases a list of statistics, occurrences, incidents, on a weekly basis. I can't tell you whether either one of these gentlemen get them directly or whether they fall into a news person's hands that deal with simply with Fire and Police. If something sparks the interest out of what we have sent, there will be a call back to our agency to get more information. Yes, then it is provided, as long as you're not disclosing anything about an ongoing investigation and all the rules and regulations you have to follow about victims

privacy.

Captain Cornwell: What stats do you send out?

Councilwoman Jones: Number of calls, types of incidents and the numbers, I think that Rehoboth also releases whether or not they're doing, or it comes directly from the Office of Highway Safety, whether they're doing DUI enforcement campaigns.

Captain Cornwell: DUI is done by OHS.

Councilwoman Jones: Didn't I just say that, I'm sorry?

Captain Cornwell: You said that you didn't know if it was by you or by OHS; I'm just saying that OHS let's everybody know whether DUI's are...

Councilwoman Jones: I'm not sure whether Rehoboth releases it or OHS releases it.

Captain Cornwell: I'm just trying to find out what stats Rehoboth's putting out that the media would look at to come back and say, hey you had this, and this, and this, because I've been doing it 25 years and at Rehoboth, Milford and here and I've not seen where stats are put out and they call or come and ask you about them. Usually News Releases are done for that, so that's why I'm trying to find out what Rehoboth does different than anybody else.

Councilwoman Jones: There are indeed News Releases in addition to statistical information that's released to the paper.

Captain Cornwell: Okay. And then, just to get one thing, I know that you said that the Mayor talks to the Chief and me, also, but our doors are opened to you also and we've extended that courtesy and open door policy to you, but you've never taken us up on that. So again, we open our door up for you.

Mayor Newlands: Okay, that's off topic.

Councilwoman Jones: Captain Cornwell, what I said to the Mayor was, what information was he going to bring back to the Council, after he spoke with the Chief tomorrow. The Mayor made the statement, I followed up to ask what information was going to come back to Council as a result.

Chief Phillips: One more question, please. So Rehoboth, if the news media calls and says we heard there was vandalism someplace, then Rehoboth would then type up a News Release and send it out to them, is that my understanding?

Councilwoman Jones: No. Not a typed News Release.

Chief Phillips: What would you tell them, that nothing happened? Or you won't tell them, or share with... I'm just trying to find out.

Councilwoman Jones: That is fully in the hands of the Information Officers where I am. I would be wrong to second guess, but I hear many interviews done over the phone, collecting information from either the Chief of Police or his Detective.

Chief Phillips: But they would give a statement if they were called about a News Release.

Councilwoman Jones: Within the parameters of what is appropriate to be released, per Directive 54 of the Police Department.

Mayor Newlands: Alright, so I will send the Press Releases in a day or two, after I talk to them and I'll give everybody a copy of what I was talking about, so we can all look at them; we all know what we're talking about, before we sit and come to a conclusion on this. I mean, it's the only fair way of doing that, so we know what we're legislative here.

Councilman Booros: While we're still on this on 4.c. Social Media Policy, Use of Social Media by the Police Department, that's the fox starting the hen house on that one, quite honestly.

Mayor Newlands: Well, I wanted to add website, because they have a police...

Councilman Booros: I'm not talking about the website, I'm talking about their Facebook page, has all the same Press Releases and the pictures...

Mayor Newlands: It would have the same criteria. I wouldn't...

Councilman Booros: Well, that's what it says Cliff, Police Department, all Social Media sites hosted by the Police Department shall have and starts, Definition of a Social Media site, includes, but is not limited to Facebook, Twitter, Blogs. It needs to be taken out of there. You don't let one of them let the other one tell what's going to be on that site. I also have a problem...

Mayor Newlands: If we were not going to do Press Releases on X, Y and Z, we wouldn't put them up on Facebook.

Councilman Booros: Don't bet on it. I'm sorry, Sir. I'm sorry.

Chief Phillips: My understanding is that the Neighborhood Watch in Rehoboth, do they get certain News Releases about different things, that they don't put out to the news media.

Councilwoman Jones: I can't confirm that all that information is not what they put out to the news media, they do compile the same statistical list for Neighborhood Watch and wait a minute, because I wrote this back to Mr. Thompson, "Rehoboth's method of releasing information to their Neighborhood Watch Group, is as described by my Detective directed, localized, community notification to target the prevention and identification of criminal activity. The Neighborhood Watch in Rehoboth Beach, compiled by the Neighborhood Watch Group and the emails on the list are comprised of folks who own property in Rehoboth Beach." That way you can't get some news reporter or, at least it helps in filtering, that you don't get some regional or national news reporter who's just going to get quick information, when some of that information in the cases of a missing person, that is not only appropriate to get help from the community; meaning the public media, but the Neighborhood Watch which it affects the immediate community is much faster then the media picking that up.

Chief Phillips: Okay, another question I have for you. Also, every misdemeanor, violation, arrest, every arrest made, the news media could go to the J.P. Court and get a copy of the warrant, so let's say we don't do a News Release, they go get the paperwork and they call and say we have a question about this that the warrant didn't explain. If you don't have misdemeanors on there, I'm going to have to tell them I can't talk to them. I'm just asking. I'm going to tell them that I'm not allowed to them, because the Council says I can't, or our policy says I can't; how do we handle that?

Councilwoman Jones: The media can come to your department and look at your arrest log, at the people who have been arrested.

Chief Phillips: No. Our policy does not do that. No.

Councilwoman Jones: Yes.

Chief Phillips: I think you're misinformed there.

Councilwoman Jones: I didn't say to show Juvenile Detention log, I said showed the arrest log.

Chief Phillips: No.

Councilman Booros: Did you say your policy? Speaking of policy...

Chief Phillips: I think DelJIS does not allow... You're not allowed to give that information out after you do the News Releases. You have to be very careful what they see, what they don't see.

Councilman Booros: Chief, do you have a copy of the Police Departments 2006 Standard Operating Procedures?

Chief Phillips: Excuse me, Sir.

Councilman Booros: The 2006 Standard Operating Procedures for the Police Department that were approved by Mayor and Council back in 2006?

Chief Phillips: Yes, of course we have that, yes, Sir.

Councilman Booros: Can I get a copy of that from you? I've inquired in Town Hall and they can't come up with a copy.

Chief Phillips: There are certain sections that you can, but there's also sections that you cannot.

Councilman Booros: Of Standard Operating Procedures for a Police Department?

Chief Phillips: Yes, for school shootings and stuff, absolutely not. You cannot have privy to that. Investigative things, no you cannot have privy to that. But some of the standards, yes you can.

Councilman Booros: Could you redact the things with black that I can't see?

Chief Phillips: It will take us time, but we can work on that.

Councilman Booros: Not a problem. I've got all the time in the world.

Mayor Newlands: He said yes.

Chief Phillips: Just to play it safe, our probably have our Town Attorney do it, so he can take care of that.

Councilman Booros: That works. Thank you.

Chief Phillips: Whatever it costs to take care of it.

Mayor Newlands: Did we beat that one up enough tonight?

Councilman Booros: Okay.

- g. Approval for an Ordinance to amend the Town Code relating to penalties for violations of certain town ordinances

Mayor Newlands: This is where we were lowering the ceiling for some of our fines from \$100, down to \$99, so we keep these out of the Court of Common Pleas. Is that what it was?

Seth Thompson: Yes. The only other change since the last time we looked at it, I added in Town Manager or other designated town employee. I took out Town Clerk, since that was an antiquated reference.

Mayor Newlands: So this is so that the Code Enforcer can go and defend the town in J.P. Court where this won't get bounced up to the Court of Common Pleas, where we now have to get attorney's fees to come into play and to fight something that's \$100. Quite frankly, it's not going to be worth it. Can we get a motion to approve this?

Councilwoman Patterson: Mr. Mayor, I make a motion to approve the Ordinance to amend the Town Code relating to penalties for violations of certain town ordinances.

Councilman Booros: Second.

Mayor Newlands: We have a motion and a second to approve an Ordinance to amend the Town Code relating to penalties for violations of certain town ordinances. Let's do a roll call vote:

Councilman Lester	Yes
Councilwoman Jones	Yes
Councilwoman Patterson	Yes

Councilman Booros	Yes
Mayor Newlands	Yes

Mayor Newlands: Motion is carried.

- h. Approval of an Ordinance to amend Town Code to set fines and penalties with a 3rd and subsequent false security systems alarms

Seth Thompson: The only change on this, just based on our last meeting, you guys asked that I pare down and instead just incorporate by reference, the State Code that set this off. So that's what I did. You can see in 119-2, that we're just adopting and incorporating the State Code on false alarms.

Mayor Newlands: This is where the State, a few months ago, approved any resident whose alarm system goes off three or more times in a year, they get a penalty of, I think it's \$50 for the first alarm; \$75 for the next alarm; and \$100 for the next one after that. If we don't enact this, the State gets the money, so this is only to allow us to bring the money down to the township level.

Chief Phillips: Does it just say resident, or it does say business; I didn't catch that part.

Mayor Newlands: I'm sorry. I used the word resident and let's see what it says.

Seth Thompson: It should be security system user, so it could be a business, as well.

Mayor Newlands: Okay. Yes. That was my reference.

Captain Cornwell: It is police and fire?

Mayor Newlands: It's any alarm. Is a fire alarm, a false alarm; do you know?

Seth Thompson: I'll check in the Code. I think it's only security alarms.

Mayor Newlands: Just security alarms. Well security alarms could be fire. We're referencing the State's code, so we're not replacing it with our own code. So we'll find out what the State code is, but the question I have, Chief, is how do they tell you it's a third or subsequent alarm? Do they tell you when they call you guys?

Chief Phillips: We pretty well know on top of that, but, they'll actually tell us also.

Mayor Newlands: Oh they will. Okay, So we have control over that.

Chief Phillips: We normally know when we get the reports the next day that it's a second or third alarm.

Mayor Newlands: Okay, so they have it on their reports. Okay, that's fine. So if we adopt this, then we'll wind up getting the fines in town, as opposed to the State getting the fines. The more money we get in town, the better. Motion?

Councilman Lester: I make a motion for an Ordinance to amend the Town Code to create a new chapter governing false alarms and security systems and protective services.

Councilwoman Patterson: Second.

Mayor Newlands: We have a motion and a second to create an Ordinance to amend the Town Code to create a new chapter governing false alarms and security systems and protective services. Let's do a roll call vote:

Councilman Lester	Yes
Councilwoman Jones	Yes
Councilwoman Patterson	Yes
Councilman Booros	Yes
Mayor Newlands	Yes

Mayor Newlands: Motion is carried.

- i. Approval for an Ordinance to amend Town Code related to sex offender residence
Seth Thompson: We talked about it last time, but I just wanted to clarify and see if anybody had any additional follow-up questions. Again, this is really a Zoning Ordinance. Both the Chief and Detective Boone noticed some areas that the language could be improved to close some loopholes, so that's what I've done and what I did to make it clear as to the "grandfathering"; I put in the date of November 6, 2006, which is when the ordinance was originally passed. So if somebody is in a residence and it has to be that a particular residence, they can't move to a different residence that's in violation, but if they were in a residence on November 5, 2006, it's within that zoning limitation, they can remain there.

Councilwoman Jones: I have a question. Since this has an addition to it, after working with the Chief of Police, does this then become the first reading of it as amended, or are we free to approve it tonight, as written?

Seth Thompson: I would think you would be free to approve it. Again, that's something that we set up as a Best Practices. If you feel that maybe the public needs additional notice on the change, you can always table it.

Councilwoman Jones: I don't. I'm just asking you from a legal standpoint.

Seth Thompson: Yeah, that's not a requirement, but the first and second reading isn't a requirement, but I think it does tend to be helpful in that people can see things; they have two opportunities to see and hear a discussion about an item.

Mayor Newlands: Do you feel there's more time needed?

Councilwoman Jones: No.

Mayor Newlands: Okay. Can we get a motion to approve this?

Councilwoman Patterson: Sure Mr. Mayor. I make a motion to approve an Ordinance to amend Chapter 174 of the Town Code relating to the residency restrictions of sex offenders.

Councilwoman Jones: Second.

Mayor Newlands: We have a motion and a second to amend Chapter 174 of the Town Code relating to residency restrictions for sex offenders. Let's do a roll call vote:

Councilman Lester	Yes
Councilwoman Jones	Yes
Councilwoman Patterson	Yes
Councilman Booros	Yes
Mayor Newlands	Yes

Mayor Newlands: Motion is carried.

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

- a. Delaware Rural Water Association leak testing cost (\$6,000)

Mayor Newlands: I will let Mr. Abbott speak to it, but we did leak detection on some of the major water mains within town. This accomplishes the rest of the town.

Win Abbott: Yes, Sir, Mr. Mayor, you'll find an attachment with reference to the leak detection. This was copied verbatim from the May 7th, A Better Accounting of Water

Use Report, where it goes through the targeted streets, their links, and the amount of time that it will take in order to get them done. Bringing the machine from the Delaware Rural Water Association will cost us approximately \$4,250; we were estimating \$1,000 and equipment rental expense to clean out the valve boxes at either ends of the streets. We may be able to save on that. Mr. Rustum has been working cooperatively with the City of Milford and they might just loan us the machine and a man for a day or so. Nonetheless, \$6,000 would be the upper possible limit; \$4,500 would be the lowest possible; in order to get a better leak detection survey of these targeted streets.

Mayor Newlands: The last time that they came in they spent a day or two days to do the leak testing?

Win Abbott: Yes, Sir, but I think we just did three streets. As you can see here, we have a lot more streets.

Mayor Newlands: We did the river crossings mostly.

Win Abbott: Yes and Broad Street and Front Street.

Mayor Newlands: Right, okay. And this encompasses virtually the entire town?

Win Abbott: The older part of town, anyway.

Mayor Newlands: Okay. Okay.

Councilwoman Jones: Mr. Abbott, just above the table, a comprehensive survey of these aged lines will help us to prioritize replacement. Is that the same thing that though everybody hasn't had the opportunity, perhaps, to read it, in the Pennoni report where they have recommended a mapping proposal. Is that the same thing?

Win Abbott: No, not exactly, but the mapping can be accomplished by the Surface Water Quality Mapping/Planning Grant that we mentioned way back in the beginning of the meeting. However, this will complement that because the Pennoni Report actually complemented the work that CABE Associates had done before in identifying certain old water mains and approximate cost for replacement. By doing these, we could prioritize the places where it would be and the mapping would help us to get a better estimate of the exact cost for replacing, let's just say, a 4" main with an 8" main on Atlantic Street; with us having more specifics about what it would take to do that.

Mayor Newlands: The area, Atlantic Avenue, Pine Street, those streets out there, they're 60 years old, the mains; they're 4" mains. I forget what kind of material they are, but when they were putting these pipes in, there was either a water main or a sewer main; one was like a 4 gauge and the other one; I'm brutalizing this, Bob, but I apologize for it; one was a thicker pipe; one was a thinner pipe. The thinner pipe was used for sewer, that's not under pressure. The thicker pipe was used for water. They're not sure if they used the right pipe, because when we tapped into the pipe about two months ago, it generally takes these guys 6 to 8 turns to tap into the pipe, it took them 2 and they were through it, so we're not sure if the pipe's deteriorated or the wrong pipe was used; so at some point out there, that whole area's got to get surveyed and looked at for new piping.

Councilwoman Jones: My last question is actually the last sentence, which says "The project will help us meet the requirements noted in the letter from DNREC." I've seen the letter from DNREC now, which was in answer to, I'm going to assume, our request to increase allocation. Are you able to share that original letter with us on Council, Mr. Abbott?

Win Abbott: You received it in a packet, about a week ago.

Councilwoman Jones: The original letter, or the one that came back from DNREC?

Win Abbott: Oh, you mean the first letter of inquiry. I suppose I could find it. Sure.

Councilwoman Jones: Okay, because you're right, I did see the other, I just wondered where it began; where we made the request for a higher allocation to get this response letter back from DNREC.

Win Abbott: Sure.

Councilwoman Jones: Thank you.

Win Abbott: Our engineer says June of 2009.

Councilwoman Jones: You have that letter? Okay.

Mayor Newlands: Okay, can we get a motion to approve this? This is to help us find any missing water, any leaks that we have in our system, which is a requirement going forward actually for any kind of water system improvements that we do, or State Funding.

Councilwoman Jones: Is this just paid out of our water accounts?

Mayor Newlands: Yes, we have the money.

Councilwoman Jones: Okay.

Mayor Newlands: Water is a good business to be in.

Councilman Lester: I make a motion that we approve the expenditure of \$6,000 for Delaware Rural Water Association leak testing.

Councilwoman Patterson: Second.

Mayor Newlands: We have a motion and a second to approve the \$6,000 for the Delaware Rural Water Association leak testing. All in favor.

Councilwoman Jones: Discussion.

Mayor Newlands: I'm sorry. Thank you, thank you, thank you. She's right.

Councilwoman Jones: Are we approving up to \$6,000, or are we approving the cost that was estimated at the bottom which was \$4,250.

Mayor Newlands: Up to \$6,000, because as Mr. Abbott said, there's equipment that we may need to rent, if we can't borrow it, we need to rent it.

Councilwoman Jones: I just wanted to squeeze that into the motion.

Mayor Newlands: Is that correct Mr. Abbott?

Win Abbott: Yes, Sir. That's correct.

Mayor Newlands: Councilman Lester just amend your motion to say up to \$6,000.

Councilman Lester: I amend the motion up to \$6,000. Thank you.

Mayor Newlands: Second?

Councilwoman Patterson: Second.

Mayor Newlands: We have a motion and a second to authorize spending of up to \$6,000 for the Delaware Rural Water Association leak testing. All in favor say aye. Opposed. Motion is carried.

16. No Executive Session

Mayor Newlands: There's no Executive Session and let me just spend a second. If you're all reading the paper and watching Dewey Beach, we need to be very specific when we have Executive Session, all the times used to just put down on Executive Session, personnel, litigation, whatever; just as a catchall, in case we needed it. We can not do that at all anymore.

Councilman Booros: Do you know what the rules are for doing it?

Mayor Newlands: The rules, well I defer to Seth on that, but if we don't have any definitive items to talk about and that's at the time that the agenda is published, it has to be no Executive Session. We can't have a catchall anymore.

Councilman Booros: But how definitive are you when you publish what you're going to talk

about?

Seth Thompson: It's going to have to be...

Councilman Booros: That's what I said. Do we have some sort of...

Seth Thompson: I can tell you that the Attorney General's opinion was a departure from, I would say, almost all municipalities interpretation in terms of...

Councilman Booros: So how do you publish if you have a personnel issue with a specific person, I mean? How detailed to you have to get, because apparently it's going to be releasable under FOIA, so I mean do you just have the personnel discussions right here in the open meeting or do you...

Mayor Newlands: No, that you don't do. No. That you can't do, but do you say which person it is, and what the issue is? I don't know.

Councilman Booros: That's my question. So we can't forego ever having another Executive Session without getting that answered.

Seth Thompson: Right. And I think we're going to have to analyze it on a case by case basis. I would love to give you a much better answer and give you some _____ on the rules. I think it's a fluid situation.

Mayor Newlands: And we will have on the 23rd talking about the settlement of an issue and that will be detailed, as best we can; without detailing the terms, which will never be detailed.

Seth Thompson: The problem when it comes to personnel, as well as proprietary information, it's one thing if it's just a town issue and frankly the town could elect to have certain things in an open meeting, even if they fell within one of the Executive Session purposes, but when it comes to individuals private information or proprietary information, you know, obviously, that's not just the town's interests that are at stake there, that's why it's a little bit difficult to set up a set of rules going forward, but we'll just have to analyze each situation as we go.

Mayor Newlands: I think in year's past, even talking about Shipbuilder's and that negotiation, may have been done in Executive Session, because we were talking about the price of the property and I mean there's nobody else probably coming forward looking for that property, so I opted to put that price in there, so that we all knew what it was and if somebody beats us out of it, I've got news for you, the bank would be very happy. Motion to adjourn somebody?

17. Adjournment

Councilman Lester: I make a motion to adjourn at 10:04 p.m.

Councilwoman Patterson: Second.

Mayor Newlands: We have a motion and a second to adjourn. All in favor say aye. Opposed. Motion carried. Have a good night.