

**Town of Milton  
Town Council Meeting  
Milton Library, 121 Union Street  
Thursday, August 23, 2012  
6:30 p.m.**

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

**1. Presentation by Pennoni Associates – Water System Improvements**

Mayor Newlands: Good evening everyone. I'd like to call the meeting to order. I want to introduce Steve McCabe from Pennoni Associates. He's going to do a presentation on the Water System Improvements.

Steve McCabe, Pennoni Associates: Good evening. I'm a Registered Professional Engineer with Pennoni Associates and was commissioned by the town to perform a water study following the Referendum. This evening I've prepared a short PowerPoint of our study and this is the agenda of the PowerPoint. We're going to do Introduction and Overview, then we'll go through the content of the report, the report contains a review of available information. Our findings. Some alternatives and recommendations and following those, we'll open up the floor for questions and answers. Like I said, my name is Steve McCabe and I represent Pennoni Associates. We have an office here in Milton and the purpose of the report was to review the current Town of Milton water facilities study and give them recommendations for moving forward with capital improvements to service their existing need and future growth. The Scope of Work – we met with the Town Manager and the town officials and received their directions and did a good deal of listening and followed their direction, but we performed a comprehensive review of the existing water facilities in the town, their preliminary engineering report from the previous Referendum. We interview town officials and Public Works staff and had meetings with members of State agencies concerning the existing water system. We acquired available records, maps and data and information concerning this system and the performance of the system, pumping records, meter records, previous engineering reports performed by the Town's Engineer and maps of the system, whatever we could obtain from town officials. This is a map of the existing water system. This was provided to us by the town from the Town's Engineer and the engineering report from the previous Referendum. This is some of the information that we reviewed. This is an existing system schematic performed by the Town's Engineer from their previous report; this is basically what you have. This is like a stick diagram of your existing system. You have a series of pumps that are treated and feed into the grid to elevated storage tanks with approximately 225,000 gallons of elevated storage. You have another well, Well No. 5, that's now off-line on the right hand side of the screen. Some of the information that we reviewed, in particular, was the town's water usage data and population data. What you see on the left is a bar chart of the town's census data and population data that was provided to us by the town in blue and in red is the water consumption based upon the pumping records provided by the town. The graph on the right, with the red line in blue, is from the CABA Associates report and it's a similar graph of historical water use. This is some of the information that we did review in working with the town and trying to evaluate the situation. Based upon our review of the current water facilities and the reports available and the information available, we came up with a series of findings and I think the number one issue is the supply of water. The pumping records indicated that during the summer months, June, July and August, the town

pumps are running in excess of 20 hours of the day to meet current demand, so the system that you have and the pumps that you're running, are running almost 24 hours; they're running in excess of 20 hours just to keep up with current demand and if there's any part of the system that needs maintenance or needs to be taken down, we run into issues like we had this summer with water restrictions and the town struggling to meet demand. So increasing the supply of water in our findings was the top priority. There's a series of different ways to do that, but this was the result of our findings. As you can see from the findings and it's a wordy PowerPoint, I know, but we feel like the town needs to increase supply. The pumping records indicate the existing water allocation permit, which is for 500,000 gallons per day, which is based upon the pumping records being exceeded, so we feel like the town basically needs to increase their supply of water. As I said before, during peak demand, the existing water supply system pumps at or near maximum capacity to meet demand. Existing wells 2, 4 and 7 are individually permitted to provide more water and we feel like that's one of the solutions that we'll talk about further along in the presentation. Existing permits are for 500,000 gallons per day to be pumped in some of all the pumps and not to be exceeded, however, the individual pumps are permitted for higher capacities. We feel that's something that should be investigated, if more water could be produced by changing out pumps or improving the existing system. One of the things we found in the findings was the town records indicate approximately 10 million gallons of unmetered water and this is something that the town has done a lot of work to try to reduce, it's not unusual for towns to have a percentage of their usage be unmetered water, however, the town has a good amount of water that's unmetered. The town staff has done a good job of going through and auditing the records and looking and finding places that were unmetered and has put measures in place to try to account for all the water. They had found that not all the water was accounted for, as far as some places not being metered and some uses of water not being reported; so the town is in a program, under a water audit, and they're working with Delaware Rural Water and they're re-metering and they're going through steps to try to better account for the 10 million gallons. One of the other findings is that some of the meters aren't reading the way they should read and the town is doing a good job of calibrating those and checking those meters. They've taken defective hydrants out of service and they're working on their flow measurements from some of the wells through this process. It's been identified that some of the check valves are leaking water back into the pumps and back into the wells and some of the totalizers and flow measurement devices may be reading some of the water twice, so we're not exactly sure until some of that work gets completed and the town's working hard to get those things completed. A capital improvement program be established, that's one of the big things that we identified looking through the report, after meeting with the town we found that there weren't a lot of really good engineering drawings on the town. Some of the parts of the system are very old and there's not a lot of records in place and it was difficult to determine some of the elements of the system and the performance of the system, based upon the records that we were able to obtain, so we feel that mapping the system would be important. That's one of the results of our findings and running a model and measuring the performance of the system to see if we can identify where some of these losses are and identify how the system can run better and also for future development, knowing what size lines to upgrade when developments come on line and how much available capacity you have and you don't have in certain parts of the system. Alternatives – increasing supply of water. We came up with three alternatives and we feel like these are the main three, after going through the previous report prepared by the Town Engineer, we felt like it was a comprehensive report, however, we feel like the lowest initial cost alternative as directed by our meetings with the town and the feedback we received, would be the increased

pumping and allocation of existing wells. The town, like I said, has one well that is not being used. It's not being used because of the smell of the water; however, we weren't able to, or didn't have records of the quality of the water and the chemistry of the water, to see if it was unusable. That is now being done by the town. The town has pumped Well 5 and has tested the water, so we feel like the first alternative that should be looked at is increasing the pumping of the wells that you already have and investigating the wells to see if we can bring more water from the system that we already have. This alternative uses your existing infrastructure. It will require additional water allocation permitting and what that means is that comes along with complying with some of the requirements of the State agencies that govern use of the water and the performance of the system, so the unaccounted for water and the per capita usage is going to have to be improved and the conditions of DNREC and some of the other correspondence that the town has received, is going to have to be addressed. Based upon what is found, it's possible that this alternative can be self-financed without having to borrow money. It depends upon the amount of the improvements that are required and a lot of this is based upon test information on the wells and their performance and the yield and the draw down and the water chemistry of well number five. So that's something that needs to be determined first. This alternative will require time and require maintenance of the existing system. The second alternative is increasing the elevated storage and this is the water tower. It's a higher initial cost. You've got to build a tower, but it does provide compliance with Ten State Standards and the State Fire Prevention Regulations and those regulations do recommend having an equivalent amount of elevated storage as to your daily use and right now the records are somewhere between 300,000 and 650,000 gallons a day. So the elevated storage you have now is 225,000 gallons. So, that's alternative number two. It may also result in lower fire insurance rates. If you have more elevated storage, or if you have an acceptable amount of elevated storage, fire insurance is a little better. This alternative can be performed without addressing existing system shortcomings. You can build your tower and install it and it requires land acquisition to site the tower and all these things were identified by the CABA Associates report and well documented by the previous Referendum. The third alternative is inter-connection with another water utility provider, basically purchasing water from another nearby utility and linking you water system to theirs and sharing water. It's undefined, as far as costs; requires negotiation; a lot of times private water companies will self-finance in exchange for customers. So that's something that the town has to be vigilant about and how they negotiate their dealings. You can purchase raw water or negotiate service area boundaries. This is an alternative that can be performed relatively quickly and be financed by the private utility. We've had experience in some other areas where private utilities will finance the pipelines and the connections and pay for it, in exchange for other forms of compensation. It also may become a source of sale of surplus water. As I said before, the lines can flood both ways and if you have excess water, there might be an opportunity for you to sell, provided you're meeting all of your permitting requirements and in times of need, you can purchase water from other private utilities to help you meet your demand. Following these alternatives, we met with the town officials and the Water Committee, and we gave a series of recommendations and a lot of these recommendations are in agreement with some of the recommendations of the previous report from the Town Engineer, especially concerning continuing the environmental monitoring and require the existing system complying with the DNREC water allocation permit application/modification requirements, but that basically means just apply for more water, as soon as you can. Continue with the water audit and do the water audit in the American Waterworks Association format, so they can be reused for future use for funding agency needs. This basically puts the town on schedule to better

account for their unmetered water and eliminate losses within the system. Evaluating upgrades to existing wells to provide adequate supply, we feel like this is the first best way to see if you can meet your need, is work with the system that you have and perform your upgrades; test your wells. If the the water in Well five is usable, build a treatment building next to it, treat the water and add it to your system and apply for more allocation to bring more water into your system. If not, possibly look at sinking another well right next to it, or in a different aquifer, to see if you can improve your water supply. It's strategically located on the other side of the river and can give you another source of supply, as well as another treatment site. The next recommendation was establish inter-connectivity and loop dead ended mains. This was in concurrence also with the CABA Associates report. There are areas in town that have poor service and a lot of these areas are dead ends and should be looped as soon as possible to improve pressure and service within the system. Develop accurate maps and engineering drawings and model performance of the existing water system. That's one of our recommendations. It makes it difficult to really assess the system and to determine when upgrades are needed; where upgrades are needed; should developers come in or apply to come into the system, without having the working models and really good engineering drawings on the system. The other recommendation is to establish a Capital Improvement Program to perform necessary upgrades and try to be proactive, instead of being reactive and struggling to meet repairs and keep up with demand. Select an alternative after the water test data from well five is completed. That's going to be done relatively quickly. It's my understanding that it's already been tested and sent away and we're just awaiting results and should the town elect to proceed with Capital Improvements, update their existing water facilities plan, the CABA Associates report is 2008. Some of the data looks newer, but your funding agency is going to require the report to be up-to-date with the new pumping records and the new information and the like. With that being said, as I said before, the purpose of this was to take a second look at the system on behalf of the town and we did a good deal of listening and the town was clear to us that they wanted choices and options and we feel as if we've identified some of those and given the town the best recommendations that we can. With that being said, I'll field questions.

Mayor Newlands: You're reading for questions? Okay.

Steve McCabe: Okay. Yes, Sir.

Mayor Newlands: At one point, a couple of months ago, you had mentioned that one of your associates suggested that we put 750,000 gallon tank up and you said that we would be shocked or horrified, if you brought that up tonight.

Steve McCabe: Honestly, the State Fire Prevention Code says that you should have an equivalent amount of storage as to your daily use and the pumping records, on some days, are over 600,000 gallons and right now, you've got 225,000 gallons ability to store. So the CABA Associates report recommends a 500,000 gallon tank and then possibly a second one; should future development come on line, to be proactive and to comply with those regulations. The State Fire Prevention Regulations are what they are.

Mayor Newlands: Now you had mentioned to me a while ago that it could take up to three years to get new permits for new wells. Do you know what the time is to increase our allocation from 500,000 gallons? Is that a much shorter time period?

Steve McCabe: The water allocation modification request was made previously and the letter was sent back from DNREC with conditions and they have asked for additional information and additional items to be performed, so it would be dependent upon how long it would take to comply with that. Generally, when you're drawing water from an aquifer, the Delaware River Basic Commission and DNREC are careful about how those permits are given and they're

usually not quickly given, so it could take possibly years; two years, possibly more. It depends upon how quickly the town could comply with the conditions and the speed of the agencies, with the permitting.

Mayor Newlands: Now this is just to get more water out of our existing wells.

Steve McCabe: That's to increase the amount of water you're allowed to pump, yes.

Mayor Newlands: We would have to change our pumps, I'm assuming, because we're running 20 hours a day on some of these wells, so in order to get a larger capacity...

Steve McCabe: Well that's part of the model, because we really... I'm not... More tests have to be run. I'm not certain that the existing system is running efficiently. When all three pumps are running, one of the wells – well production decreases – so I'm not sure, based upon the records that I've seen that they're running efficiently. When we looked at the alternatives, and we compared pricing, we did price it to replace the wells and the pumps along the wells.

Mayor Newlands: You did price it to replace the wells?

Steve McCabe: In our cost estimate in the report, yes. We went with a completely new system, just to give budget numbers and worse case scenario figures. But that wouldn't be determined, until you really do an engineering analysis of the system.

Mayor Newlands: I know some of the wells haven't been cleaned out and the sediment on the bottom, Allen... Allen... I know a few of the wells haven't been cleaned in a while and there's sediment on the bottom.

Allen Atkins: [garbled.]

Mayor Newlands: Right.

Allen Atkins: The only well that there's been anything done to, that's well number four; well number five was just tested, flow tested. Outside of that, the other wells, number seven is a new well. It's about three or four years old. But two is an original well [garbled].

Mayor Newlands: So we need a lot of other maintenance work to go on to evaluate these wells, I guess.

Steve McCabe: Yes, that's part of the mapping and running a model of the system. It's difficult to make an exact determination with the information that we have.

Councilman Booros: Mr. McCabe, because I've heard this presentation before and I wasn't aware of it, maybe some of the people out here in the audience aren't aware of it is, we're only licensed by the State to pull out 500,000 gallons of water a day, right, from the aquifer?

Steve McCabe: That letter that you have is 500,000 gallons per day.

Councilman Booros: Right, so if we use 600,000 gallons that day, do our pumps automatically shut off at 500,000 gallons?

Steve McCabe: No.

Councilman Booros: Or do we exceed the recommended, or the allowable licensed amount.

Steve McCabe: Yeah, you exceed.

Councilman Booros: We exceed it. Okay. So part of the problem with the 500,000 gallons is that we're only licensed to pull 500,000 gallons, so on the few days that we exceed it; and there weren't that many days, I don't think, were there? That summer.

Mayor Newlands: There's quite a few.

Councilman Booros: That we exceed that amount?

Steve McCabe: Yes, it's about half the days of the month during June, July and August.

Councilman Booros: Of August. Right? June, July and August.

Steve McCabe: But the records aren't completely accurate either, because...

Councilman Booros: There's missing water.

Steve McCabe: It's not that there's missing water, it's that the recorded data isn't quite accurate

because some of the check valves on the pumps are leaking and meters may be reading water twice; going in both directions.

Councilman Booros: So we may not be using 600,000 gallons a day?

Mayor Newlands: That's correct.

Steve McCabe: It's possible.

Councilman Booros: Okay.

Steve McCabe: More study has to be done.

Councilman Booros: And then this is a question, I guess, for either Allen or the Mayor or CABA Associates. This letter dated December 10, 2011 from the State telling us they weren't going to allow us to draw more than 500,000 gallons out of the aquifer on any given day. Was this ever mentioned in any of the Public Hearings prior to putting this town through a Referendum for the water tower?

Mayor Newlands: We just got this about three weeks ago?

Councilman Booros: No. I've seen it longer than three weeks ago, Mr. Newlands and a carbon copy of this letter went to CABA Associates, so I assume CABA Associates, who was the person that stood to gain from us building a \$3.4 million water tower with an engineering fee built into it, knew about this letter last December 10<sup>th</sup> and I sat through every one of those hearings and never once heard that the State said we couldn't pull out more than 500,000 gallons; we've been denied our request for 750,000 gallons. We had things to do that we had to do before we reapplied and we're doing those things now; finding the missing water; there's other things. We just went through one great expense for a Referendum of this town for this and this letter was never mentioned until I saw it a few weeks ago in the Pennoni Associates report.

Mayor Newlands: That's the first time I saw it, too. I'm telling you, that's the first time I saw it.

Councilman Booros: Well then, I think CABA Associates needs to answer why this town was never made aware that part of our problem is that we're not licensed to pull more water out of the ground. I just don't understand it, I guess. The deal.

Bob Kerr, CABA Associates: I didn't come this evening to talk about the water system, so I'm really not prepared to do that.

Councilman Booros: I didn't think you were going to be here.

Bob Kerr: No, I'm here for the Heritage Creek portion of the agenda. Yes, we were aware of it at that time; the town was aware of it; I believe that all of Council knew about it; possibly the members at that time. We've been working with the town staff ever since that letter came in. We're the ones who discovered the missing water and I believe...

Councilman Booros: Council was not aware of the missing water either, prior to voting on a Resolution to move forward with that Referendum, either; they weren't made aware of the missing water either. So that's two things Council was not made aware of when they voted on a Resolution to move forward with that Resolution to make these people go vote on building a new water tower. Two important issues and I think CABA Associates knew about both of those issues and I think somebody from CABA Associates that didn't inform us, in all of those Public Hearing that we sat through, hearing that same report over and over again; those are two very important issues before we wasted the kind of money we wasted on a Referendum this past year and I think somebody from CABA Associates needs to tell us why those two things weren't made clear to not only these people in this audience and myself, who sat in this audience, but to the members of Council who did not know, and according to the Mayor, he didn't know.

Mayor Newlands: Nor did I know about the missing water, until you found out.

Councilman Booros: Understand. But if CABA Associates knew this, then somebody from CABA Associates needs to stand before this Council and tell them why this information wasn't

given to us, because the only one that stood to gain from us building a new water tower was CABA Associates, to the tune of \$450,000 in engineering fees built into that proposal.

Bob Kerr: I beg to differ that we would be the only ones to benefit. I believe if the town built a new water tower, that they would have the benefit of additional water storage, but we will agree to disagree on that, Sir. We informed the town of those problems; whether we came before Council or whether we have been communicating with the town staff, this evening I can't say which. Okay?

Councilman Booros: I understand that. I do understand that, but I think somebody from CABA Associates needs to let us know who was informed, when they were informed, and why this town went through what this town just went through and the bad press and everything else over something that was known before we ever went through it. Because when I saw this, I was like floored. I didn't know number one that you needed a license to pull water out of the ground. I had no idea, but then we never would have been able to pull more out of the ground, because the state told us we couldn't. I'm sorry. Did I make myself clear on that?

Mayor Newlands: Yes. I think you did? Yes. Questions from Council.

Councilwoman Jones: Mr. McCabe, one of your alternatives is the elevated storage and you're now recommending a 750,000 gallon tank. Would that then take... If that were in place, will that then take the other two towers off line?

Steve McCabe: I'm not recommending the 750,000 gallon tank.

Councilwoman Jones: I'm sorry. I thought you said larger than the one that was recommended, the 500,000.

Steve McCabe: No. No.

Mayor Newlands: I said that and that's from a discussion that Mr. McCabe and I had a few months ago, that his associate thought we should have done that and he actually said I would not want to mention that in Milton. I would like to keep it at 500,000 gallons. So I brought it up just because I wanted it out there and disclosed, that's all.

Councilwoman Jones: My mistake. Let's say we went with the recommended 500,000 gallons that came prior to your review of the water system. Would that then take the place of the other two water towers? Would they be taken off line?

Steve McCabe: That would be a decision that would have to be made by the town and the Town Engineer. The State Fire Code Regulations recommend that an equivalent amount of elevated storage as your daily consumption and to be in compliance with that, you would need, based upon the records there, in the neighborhood of 500,000 gallons just for existing need.

Councilwoman Jones: So with the combination of all three you would have, what, 725,000 gallons, Mr. Mayor?

Mayor Newlands: Yes. And I would like to at least keep the 150,000 on Chandler Street, because we have to some sort of back up, because of what happened this year with the rusting problem that we had and the leak we had; you still want to have something, another back up for that.

Councilwoman Jones: Thank you, I didn't mean to imply you made that recommendation.

Steve McCabe: That's okay.

Councilman Booros: And Mr. McCabe, something you did say in your thing was that we could always build a treatment center next to well five if the water was determined to be good; there's already one there.

Steve McCabe: Yes, well five already has a small facility there to treat the water. It may not be able to, depending upon the test data of the water that comes out of the well, but at the time when I looked at the system, well water data wasn't available, so I felt like when you look at the

permits that the town has, the wells that are already there are individually permitted to pump more water than what the town needs, so my first alternative was to investigate the wells that the town already has and I found a well that was not being used and when I asked about why it wasn't being used, of course, it was the smell of the water and the citizens weren't happy with the smell of the water; but when I asked about the test data and how bad was the water and could the water be treated and could the water be made use of, there wasn't enough information available to make a decision yes or no and the town has been proactive and has gone forward with pumping that well off and hiring someone to test that. So that work has been done and that test data is pending, so that was one of the alternatives.

Mayor Newlands: My understanding is you can smell the sulfur at the Fire Hall, so it's heavy.

Steve McCabe: It's probably the reason why it's been abandoned. Like I said, just coming into this within the last few months, that was the first impression that I had was to use the system we already have, but you know there's a lot of ways to treat water and a lot of the treatment could be less expensive than some of the other options.

Mayor Newlands: Allen, do we have a generator on well five; so there's some beefing up that has to be done down there, as well. Have you looked at our records and have you found anything that gives you any indication why we had a spike and we've continued to go up in 2009? All these charts show that we spiked in 2009.

Steve McCabe: There's a lot of ways to speculate on it, but if you look at the data, the water usage is going up, but the town population also has increased and it could be the check valves on the pumps, systematic leaking more, and the pump meters reading water twice, reading it both ways. It could be a combination of things. I talked to Public Works quite a bit and met with them and it seems to me that they're investigating all the leaks that they can find and they're not finding a lot of leaks, so it could be in the way that the water is accounted for and the way the water is metered. I think you're probably going to find it's a combination of things.

Mayor Newlands: I know we have more irrigation use now, than we had before, as well. So that's in the last few years.

Steve McCabe: There were some places that we found that were unmetered and Public Works has metered those places and they're working hard to account for all the water.

Mayor Newlands: I know we have a shopping list of things that you wanted to add, to look at, for different projects to go on. Is this in priority order? No. Okay. This is Exhibit "F".

Steve McCabe: No, it's not in priority order. What we did was these are a series of lines that we feel should be looped and should be improved and inside the report, in the body of the report, we made some recommendations based upon that list that was generated by the CABA Associates report and we prioritized them based upon what we felt would provide the best service to the areas in town that had low service and upon the direction we received from Public Works and the Town Manager's office. They're listed in the body of the report.

Mayor Newlands: Allen, the dead ends. Are those the areas that you have to bleed off every now and then?

Allen Atkins: That's right.

Mayor Newlands: So this would stop us, or at least alleviate us from bleeding off the system periodically, these dead ends?

Steve McCabe: Yes and based upon the hydrant test data and there is new hydrant test data coming out this fall, there were some areas that were identified that didn't meet service requirements for pressure and duration and a lot of those just happened to be on the dead ends and some of them are in the old parts of town, where the main sizes are unusually small, but the Wagamon's West Shores area, the Chestnut Street and, of course, the Atlantic Street areas were

some of the areas and there were a few other locations like Park Street, that were dead ends, that we felt should be prioritized and that's something that the town can undertake under capital improvements or if you want to finance them in other ways, tackle them in other ways.

Mayor Newlands: That was my next question. We can self-finance through capital improvement plan; where are we going to get this money from?

Steve McCabe: That's a financial question. It depends on how big a project you want to undertake or what you're able to do.

Mayor Newlands: Okay.

Steve McCabe: It could be small. It could be half a street, one street.

Mayor Newlands: We don't make that much money on our water every year. Okay. Priorities for more water coming out of the ground vs. a water tower. The water tower is a given, only because of capacity, right, and meeting Code.

Steve McCabe: And meeting Code.

Mayor Newlands: Okay and the pumping, just to get all that extra water so it's really a matter of getting our applications in a row with DNREC and getting well permits corrected.

Steve McCabe: Yes, we feel like that those are the best three choices, or working with your existing system and pumping more; making an agreement with a utility provider to purchase water or to build another tower.

Mayor Newlands: Okay. Now if well number five is not usable, and I'll just through this out there, if we abandon well five, is it easier to get a DNREC permit for another well someplace else; it's going to hit the same aquifer.

Steve McCabe: That's speculating. It's tough to answer. DNREC would really have to answer that.

Mayor Newlands: I know Dogfish has tried to do that now. They're on the list to do that tonight and I'm not sure what they've gone through.

Steve McCabe: There's a lot of factors available. I mean Delaware River Basin Commission. When you mine aquifers for water, there's other wells in play and that's really a regulatory answer that you should ask a regulatory agency.

Mayor Newlands: Okay.

Councilwoman Jones: Is there any possibility at well number five that some adjustment and either the depth; well not either, the depth would make any difference of the quality of water coming out of that well?

Steve McCabe: Absolutely.

Councilwoman Jones: And is that something that can be adjusted? Does it require re-drilling; does it require special permitting; anything to do that, to adjust that well?

Steve McCabe: Typically, they're set. There are things that you can do inside the well; to answer your question, yes. The common practice that I'm most familiar with is just sinking a new well at a different depth; hitting a different aquifer and trying to get a better water at a different depth; because the location is what makes it most attractive, that it's on the other side of the river.

Councilwoman Jones: So we're ahead of the game at the fact that we have that well, we're just now searching for better quality. Any special permits to try and go any deeper, if we were to...

Steve McCabe: Yes.

Councilwoman Jones: There are. Okay.

Councilman Booros: The Dogfish application states that digging deeper into our current aquifer, where the sulfur smell is so bad. It's easier to treat the sulfur smell with charcoal filters, then it is to get the nitrates out of the water at the lower level; so if we've already got the water

and it's got a sulfur smell, why don't we just look into treating that water like Dogfish wants to do. I mean they want to go deeper to the sulfur water and then treat the sulfur water.

Mayor Newlands: Yes, depending on where they are, they may not have the sulfur smell, because what do we have; rock and shale down there? What's...

Councilman Booros: Well they mentioned it in their application that there was a sulfur smell; but it's easier to treat the sulfur smell with charcoal filters, then it is to get the nitrates out of the water.

Mayor Newlands: Yes, we haven't gotten our tests back yet, so we'll find out when that comes back.

Councilman West: Steve, how deep is that well five?

Steve McCabe: It's approximately 460 feet. It's one of the deeper ones.

Mayor Newlands: So priority wise, you're leaving the priority up to us to decide what to...

Steve McCabe: I was directed to give choices.

Mayor Newlands: Okay. Okay. But everything needs to be done.

Steve McCabe: Right. There's a lot of work to do Sir.

Mayor Newlands: Okay.

Councilwoman Jones: Are we basically pumping water as we use it, right now?

Steve McCabe: Yes. You have some elevated storage, you have 225,000 gallons.

Mayor Newlands: We've actually gone from pumping two wells a day at... 20 hours a day, or something like that.

Allen Atkins: We're running all three wells at the same time.

Mayor Newlands: We are now, but before this, what were we doing?

Allen Atkins: We were alternating.

Mayor Newlands: We were doing two at a time; more hours a day.

Allen Atkins: Right.

Mayor Newlands: Now they're doing all three wells, less hours, 10-12 hours a day.

Allen Atkins: The blending is still working okay and the pH. We cut our time down almost in half, so we're 10, 12, to 13, 14 hours a day now.

Mayor Newlands: So the pumps aren't working as long each day, but they're working every day?

Allen Atkins: Right.

Mayor Newlands: As opposed to getting a rest in between. So there's trade offs on either one of those and I think, also, we're find out that we're going to do a little bit more of a study; we're finding out that the alternate days may be helping, because we're getting different peaks and valleys on the pumping; alternate days irrigation. So we think that's helping a bit. Does anybody else on the Council have questions. Okay, thank you very much.

Steve McCabe: Thank you.

## 2. **Public Hearing Heritage Creek Phase 2B**

Seth Thompson: You guys need to have a motion to go into your Public Hearing for your next item.

Councilman West: Mr. Mayor, I make a motion that we go into number two, the Public Hearing of Heritage Creek Phase 2B.

Councilman Booros: I second that motion.

Mayor Newlands: We have a motion and a second to go into a Public Hearing for Heritage Creek Phase 2B. All in favor say aye. Opposed. Motion carried. Can I have everybody's attention.

Seth Thompson: Okay, Council, this is your Public Hearing that you requested to be scheduled on Heritage Creek Phase 2B. This is effectively major Site Plan Final Approval. We discussed it last time, obviously, but I'm more than willing to answer any sort of questions that I guess are within my purview. In terms of the Council's wishes, it might be beneficial to have the applicant go first and then in terms of the public's comments, I understand that there might be some written comments that have been received. In terms of any oral comments, if people could state their full name and address for the record. If we could also avoid a degree of redundancy; certainly you're free and able to say that you agree with what's been said previously; if we could avoid repeating whether it's for or against, it would be beneficial to keep the meeting moving along. You can basically adopt someone else's comments, if you want to reiterate them. I would urge the Council and the public to keep their questions focused on this particular application. This is Phase 2B, so the questions should really deal with that phase alone and also they need to focus on the requirements of our Town Code that you feel are either being met, or not being met, that should really be the focus. Again, this is a process where the applicant needed to meet our Code requirements. Planning and Zoning has gone through their stage of the process and now we're at the Council level. If anybody on Council has any questions for me.

Jim Fuqua: Good evening. You may have seen my name in some of your old minutes. I was the town attorney there 10 or 12 years ago. I am representing the applicant tonight, Fernmoor Homes at Heritage Creek. With me, behind me, are Ben Gordy on behalf of the applicant, and Mike Coven from George, Miles and Buhr. What I have here are these two exhibits. This is showing the proposed Phase 2B and the original Phase 2B and of course, this is the larger version of that. What this request basically is, is a revision of the original Phase 2B, of the approved R-1 LPD. The Master Plan of Heritage Creek was approved, I believe, in 2005. The condition of approval was capped at 425 residential units and if you're familiar with the location of it, Phase 2B would be I believe on the north side of Governor's Avenue; pretty much just passed where the existing construction is and the existing homes are. The original phase contained 14.08 acres. It was designed with 50 residential units and that was a mixture of 30 single family units, 12 townhouse units, and 8 duplex units. So basically what this proposal is, is to reduce that in size, as far as the construction phase to this here and a revised phase is 7.21 acres, with 12 single family units; 9 triplex units, which basically are townhouses; and 6 duplex. So, in summary, basically what is being proposed in this phase revision, is the acreage would be reduced from approximately 14 acres to 7 acres. The single family units reduced from 30 to 12. The townhouse units reduced from 12 to 9 and the duplex units, reduced from 8 to 6. The total number of units would be a reduction from 50 units to 27 units. Now the acreage and the units that are being basically removed from the revised phase, would be included in a future phase of the development, so they don't go away, they just will be redesigned into the future and there will be a Revised Master Plan prepared and submitted to the town in the near future. The original phase and the revised phase do include the portion of land that would be couched in this community center. This is the amenity area for the development. It's included... the land is included in this phase, because, basically utilities will be run to it, as part of this phase. The actual improvements and amenities are being designed. They will be subject to, after a meeting with the residents and their input, presented to the town and basically we'll go back to the Planning and Zoning Commission and to the Council for Site Plan Review. This revision was reviewed by the Town Engineer, Mr. Kerr, for compliance with the Town Code. It was found to be in compliance and I believe that Mr. Kerr found that these revisions are minor changes. The proposed revisions were reviewed by Planning and Zoning Commission and they did issue a preliminary approval of the revised Phase 2B in March and it went back to Planning and Zoning

Commission in June and they reviewed it as a final. The necessary agency permits had been obtained and they issued a recommendation of approval to the Council. Now this, quite frankly, is a minor revision to an approved plan. As you know, this is my first appearance before you and I understand that this has been before you on two occasions, I believe and at the last meeting the Council determined to hold a Public Hearing, which obviously is what's occurring tonight. Now I do want to mention that in the LPD Ordinance, which is this is subject to, it does provide in there that no Public Hearing shall be required for approval of amendments to a Record Master Plan, unless the changes significantly alter that Plan. Now we don't feel that these significantly alter the Plan and we believe that was the conclusion of the Town Engineer and the Planning and Zoning Commission; however, we're not objecting to the Public Hearing obviously; we're here participating in it; but I just want to emphasize that I really believe that this is a very minor thing. In dealing with the County, this would be something that would be handled very administratively, because there's nothing being violated from the original approval. The developer has been working with the town, will continue to work with the town, it's been a good relationship and what we're trying to do is to basically anticipate the next phase; have construction continue. Obviously it's the best thing for the developer, because he has product to sell. It's the best thing for the current residents of the development, as well as the future residents of the development and it's the best thing for the town. I know everyone's aware of the economic conditions that we've been in the last five years and a lot of developments have not survived; a lot of developments have ceased; a lot of them have been foreclosed on; in receivership; and we're very pleased that this is one that is continuing and as I said, it's to everyone's benefit that we keep it that way. So, again, I think it's a very minor change; basically they're trying to create a smaller amount of development to deal with on this next construction phase and then proceed from there. So that's basically everything we're doing. I'll try to answer any questions that you have. As I said, the fellows with me or myself, will try to answer anything you have or the public has.

Mayor Newlands: Good. Thank you. Does anyone on Council have questions?

Seth Thompson: I'm sorry. I did neglect to mention, it was approved in June, June 12<sup>th</sup>, so our 90 day period for the Council would expire September 12<sup>th</sup>, I believe. So you're within your time frame, but just be fully cognizant of it.

Mayor Newlands: Are we allowing the public to ask questions or just make comments? How do you want that?

Seth Thompson: I'm sorry I didn't address that either. It's really for public comment, so if the public could make their comment; if they have questions, it would be better to phrase it in the form of a comment to Council and that way, Council can during their discussion period perhaps, ask of the applicant to clarify any issues, but that keeps the process a little bit cleaner than if we have people going back and forth with the applicant himself. That creates a little bit of confusion and also it's kind of hard on the transcriptionist. It tends to lead to people talking over each other.

Mayor Newlands: Can I get a show of hands how many people want to speak tonight. That's not too bad. Okay. Why don't we start on this side. Please come to microphone and state your name. Before you go, I want to limit everybody to two minutes please.

Donald Perrin, 117 Heritage Boulevard, in Heritage Creek: After the last meeting, I decided to put a petition together to see who was for or against Phase 2B and the results are in front of and without going into too specific a detail, 81% of the community, people were definitely on board for proceeding with 2B; 19% either did not respond, because they're part-time residents; some were kind of ambivalent about it and some didn't want to sign the petition, which I can

understand. On a personal note, I've purchased three homes in my lifetime. I've purchased from Schell Brothers for hopefully my last home. I have not had a better experience with a builder and the developer that they represent. Thank you.

Mayor Newlands: Thank you.

Neil Sands, 111 Mill Pond Avenue: I am also a resident of Heritage Creek. I was the first one to move in there, about three years ago, the first house that was built. First of all I want to thank the Council for first of all your service to the community. I appreciate all the good work that you are all doing. I also understand that there are reasons where you differ. First of all I want to state that I am also in favor of Phase 2B moving forward, without any further delay, along with the overwhelming majority of all the Heritage Creek residents. I also feel that any action that will further delay approval of Phase 2B, holding this Public Hearing, I also question the reasoning for it. But there are several reasons here. I have given this a lot of thought and once I overcame my anger, factually, as the gentleman said, this is a relatively minor revision to an existing Site Plan and the developer has met all the requirements that were put forth by the town. I did not see anything in the Revisions that would have any negative impact on the town or any of the neighboring communities. Schell Brothers is a local builder with a good reputation and commitment to the community. They have met with the residents of Heritage Creek on a periodic basis, as well as listening to residents suggestions, also about future plans and changes. I think they've gone above and beyond other developers that I've had experience with and have been very pleased. Further delays, I feel, and hopefully there aren't any, will only put this development at risk, reduce tax revenue for the town, and further depress property values for those of us who have already built there. So, again, this is a... The last point that I really want to make and I think this is important and I think you're all on board with this; we're all trying to improve the image of the town and in an effort to stimulate growth and Economic Development. I think this action in delaying this and going to a Public Hearing creates a climate of uncertainty, telegraphing a very different message to outsiders. Is Milton a place that I would invest in? Is Milton a town that I would want to move to? I only hope that you do the right thing tonight; approve Phase 2B with dispatch and find ways, and most importantly, work together to truly show the world that we can rise above our differences and make this town a better place for all of us. Thank you.

Mayor Newlands: Thank you Mr. Sands. If you could hold your applause and comments until the end, please, we don't want to do this every time.

Dick Trask, 101 Mill Pond Avenue, Heritage Creek: I've been a resident there since October. My wife and I moved here after a long, deliberate investigation of places where we wanted to retire. It took us two years to find Milton. It took us two years to find Heritage Creek. And it took us two years to make the decision to invest, not only in a house, not only in a community, but into town where we could participate and be part of the town culture. I would dearly love you all to pass this Resolution so the success of our community can go on. Thank you.

Mayor Newlands: Thank you. By the way, one of our Council Members was told last meeting, that the people in the blue shirts were opposed to this.

Paula Constanzo, 119 Arch Street: We were not.

Councilman Booros: Well maybe should have spoke up at the last meeting, in a blue shirt.

Paula Constanzo: We know now, though. I'm actually reading a letter for a neighbor who can't be here. Since she's not here, I am going to read it in it's entirety. This is from Rob and Val Linder, 114 Heritage Boulevard. "Dear Mayor, Town Council, Preston Schell, Schell Brothers and Heritage Creek residents. It was with great disappointment that my husband, Rob, and I read the letter from Preston Schell and email exchanges from our fellow residents. First, I am

distressed that such ugliness occurred at the Town Council meeting. It is extremely upsetting that an impression was made about all Heritage Creek residents, when in fact it was a small, dissatisfied group, who were heard. Rob and I would like to state for the record, that we are in favor of the planned Phase 2B and want to see it passed. We believe that not passing it would be disastrous for all parties concerned, the residents, Schell Brothers, and the Town of Milton.” Basically, they're saying please pass Phase 2B. And for my husband I too. We would really like you to pass Phase 2B for the obvious reasons that the other residents have stated. Thank you.

Mayor Newlands: Thank you.

Bea Rodriguez, 200 Summer Walk Boulevard in Cannery Village: I want to welcome all the new Heritage Creek development people who have moved into the community. I'm originally from New York City. Getting involved in small town, local politics is something new for me, but it took me a long time; and I also lived in Chicago; so it's a learning experience for me, but it took me a long time to choose Milton, also and I fell in love with it when I saw it and I fell in love with the community that I have chosen. I do hope, and again, I am not posing this as a question, it is a comment; I do hope that Schell Brothers completes the roads that they have in the development at their expense, of course; so that the residents there can enjoy good roads and we all hope in our community to have the same. That's it.

Mayor Newlands: Thank you.

Bob Burakiewicz, 108 Heritage Boulevard, Heritage Creek: In doing some research for this meeting, I happened to read a lot of the minutes of the last few meetings that you've had going back the last year and I'm glad I don't have your job. It really is a task that takes a lot of fortitude and you've got to make some tough decisions sometimes. I was stunned at the last meeting, that this didn't pass; that it didn't get seconded; the motion didn't even get seconded. The Town Solicitor went over and asked questions of the person who was here, asking if anything that was not done, that was asked to be done and everything was done that could be done, so I was surprised that it wasn't seconded and moved forward. I did a little study on the economic impact. Each home in Heritage Creek will contribute about \$12,500 to the Town of Milton through transfer fees, water impact fees; whatever those fees are, about \$12,500. Just on Phase 2B, times that by 27 and you come up to \$338,000. If this isn't passed and there's a shortfall in the budget, because I believe that you have budgeted certain amounts of money from the sale of homes and transfer fees to the budget, where does the shortfall come from? Where does that money come from? You're already down four employees; how many more employees do you go down? What services will have to be cut, because this project doesn't move forward? We have momentum now and I know for a fact that since the last meeting that you had, with the article that appeared in the paper, two sales were lost because of negativity. That's not right. The newspaper report I felt was unfair; but that's another issue. This budget needs to move forward. Momentum is important. I moved here three years ago. I was the second one to move in and it was a slow process to see this development get to where it is now and I'm glad that it is where it is and I want to keep it going forward. If I have some more time, I have a letter from the former Mayor of another town, to read to you, who's a resident. Do I have time?

Seth Thompson: Was it submitted previously, I think? That was one of the ones that was provided to Council.

Mayor Newlands: We only had three.

Bob Burakiewicz: Was it provided from David Hefley?

Mayor Newlands: Yes, he submitted it to Council.

Bob Burakiewicz: Alright, then you have that letter.

Mayor Newlands: We have the copies.

Bob Burakiewicz: I don't need to read it?

Mayor Newlands: Yeah, go ahead.

Bob Burakiewicz: "David Hefley lives at 112 Heritage Boulevard. My name is David Hefley and I am a Heritage Creek homeowner. I'm appalled and angered by the Town Council's recent decision to delay a vote to approve the permit of the Phase 2B of Heritage Creek. Unfortunately, I'm unable to attend." I'll just skip on. "Heritage Creek is a jewel which could become another Milton development with unfulfilled promise. Failure to approve Phase 2B on August 6<sup>th</sup>, has already created an aura of uncertainty for the homeowner's of Heritage Creek as to the future of our community. All the homeowner's, those currently living here, as well as those who are looking forward to living here soon, expect to have Phase 2B approved at the Public Hearing on August 23<sup>rd</sup>. I served for 17 years as a council member, Council President, Police Commissioner and Mayor of a similar community in Pennsylvania. I have never seen a project which had prior approval to be delayed and open to Public Hearing prior to issuing a permit. This speaks of a Council that was ill prepared and/or puts personal disagreements above the greater good of the town. The residents of Heritage Creek contribute to the Town of Milton and Sussex County in many ways." Then he talks about Volunteer Firemen and Historical Society and the Garden Club and the VFW. He's basically saying let's get this approved and move forward too. Okay?

Mayor Newlands: Thank you.

Jerry Kaiser, 109 Arch Street, Heritage Creek: I have some questions, concerning... I'm not opposed to moving forward with the development, because I realize what the impact and I spoke to Preston Schell after he sent an email to the residents and everything. I would just like to say more of an open communication with the town and the residents and get some of the problems that I... My thing was the alley behind my house and you said you were going to go look at it. I don't know if you've gotten a chance to or not.

Mayor Newlands: I haven't, but I spoke to Lou the day after.

Jerry Kaiser: I'm not against moving forward with this, because I do like the development and everything, but just an open line of communication be maintained with the Borough Council and Schell Brothers and correct some of the problems as we move forward. Preston Schell told me that he planned on doing some of the paving in Phase 2A, or whatever, when they paved the roads, or put the base coat in at Phase 2B, so when that's stated... I'm not against moving forward here, but I just would like to see an open line of communication between the Borough and them so we can get some of our problems that we've been promised in Phase 2A.

Mayor Newlands: There are some of the things that we don't get involved in. If you have a problem with your home and it's something that the developer, or the builder has to fix; we don't get involved in that.

Jerry Kaiser: I'm talking streets and stuff.

Mayor Newlands: If there are some issues with the streets, we'll get involved with that.

Jerry Kaiser: No. Like I said, I want that understood. I have no problem with the construction of my home, or anything. Me and my wife both love our house. It's just some of the infrastructure that is – and I think the Borough could help us out a little bit.

Mayor Newlands: Does anybody want to speak? On Council?

Councilwoman Jones: I just want to say I have seven emails here that were not included in my package. Would you like to make those a part of the record?

Mayor Newlands: I only have two. These may be duplicates. Can we get a motion to close the Public Hearing?

Seth Thompson: Mr. Mayor, before you do that, there is one other letter that I saw, in addition to the emails, I just wanted to note it for the record. It looks like it's from Anthony and Geraldine Belcastro of 113 Arch Street. Everybody should have a copy. Thank you.

Mayor Newlands: Thanks. Can we get a motion to close the public hearing?

Councilman West: Mr. Mayor, I make a motion to close the Public Hearing.

Councilman Lester: Second.

Mayor Newlands: We have a motion and a second to close the Public Hearing. All in favor say aye. Opposed. Motion is carried. It's 7:45 p.m. Let's open up the regular Town Council meeting and we'll start with public participation.

### 3. Public Participation

- a) Ginny Weeks, 119 Clifton Street: I would like to address two items that are on the agenda this evening. The first is the rezoning of some land from Commercial and Light Industrial. That's a good thing that you're doing, but I would like to add to it that the last time the Comprehensive Plan was reviewed, which you voted on it in almost your first meeting here. One of the suggestions of the committee that reviewed was that you redo the zoning in the growth area of the land that was to be Elizabethtown. The reason for that is, it is zoned in the growth map, as either CM or CR, which is a mixed, commercial/residential use. It is the law that our zoning ordinance needs to reflect the Comprehensive Plan. We have no such zoning designation in our Code. So that needs to be changed. Second of all, I would ask you to remove from that piece of our growth map, the LPD overlay. As you can see, between Cannery Village and Heritage Creek the Large Parcel Development portion of our zoning ordinance is rife with problems. I would ask you to remove from the growth area any LPD until you have a chance to investigate the LPD Zoning and fix it, because it's in dire need of fixing. Just the simple fact that of all the hoopla tonight because you allowed a Public Hearing, because the word "significant" isn't defined. Also if you look in the LPD, there is no setback regulations. If you look in the ordinance, it refers you to the density code. If you look in the density code, it refers you to the ordinance, or one of these things; but no numbers. So this is a piece of zoning that is in dire need of investigation and as long as you leave it in our growth area, it is a danger to the town. That piece of land should be R-1. It should be Residential-1 and then after, and if they annex in, then you consider giving them greater density. But to do it at the beginning, with no cost to the town; with no benefit to the town; is silly and I would ask you to add that. In last week's meeting, it said that you were working on the yearly plan for the Comprehensive Report. Has that been forwarded to the State?

Mayor Newlands: I have no idea what you're talking about.

Ginny Weeks: Robert, I believe under your work it said the yearly, annual report on the Comprehensive Plan. And then is said forward to State, underneath it.

Robin Davis: I believe Ms. Weeks that was the development trends and all the \_\_\_\_\_ to the State, it was in the Comprehensive Plan.

Ginny Weeks: Well is said Comprehensive Plan, so I was just...

Robin Davis: It falls under the Office of State Planning, because...

Ginny Weeks: Because I was going to ask if it was the annual report on our Comprehensive Plan which is so important in defining what our ordinances are, why it didn't come before this board before it was sent forward. The second thing I want to

address is the well at Dogfish Head. Dogfish was allowed that well, it's my understanding, because when they first built there, the cannery which preceded them, had a well. Now they are greatly expanding and they need better water, or more water, or whatever and they want to close that well and build a second well. Dogfish does not contribute to the water costs of the town. If there were a fire there, we pay for the water storage up in the tower. We pay for the pipes to get it to them and we are responsible for putting that fire out. So I would ask you to seriously, if Dogfish wants a second well, then that they contribute in lieu, a good amount of money, towards the support of our Water Department and whatever upgrades we need to make for their fire prevention. Thank you.

- b) Sam Gard, 115 Sassafras Lane in Chestnut Crossing: My first comment is a great big thank you to the Town Council and to the State for financing Pennoni Associates study. Mr. McCabe has left and despite the fact the he has left, I want to give him a great big thank you for the good work that he's done and for the honest presentation that he's made. I would like to suggest that we all properly parse the State requirements for water storage and whether that is compliance with the State Requirements, or compliance with somebody's recommendations. The way I head Steve say it, he said that we're not in compliance; or at least I interpret. I shouldn't say what he said. My interpretation of what he said was that our current storage is not in compliance with the State Fire Protection Code. That's not what we heard during all the presentations that were made by CABA Associates and others. So I want to make sure that all of us are aware of what the minimum requirements are for fire fighting. He said that the Fire Code recommends that you have one full daily usage in storage. That's not what we heard during CABA Associates presentation with respect to how much you needed, so... And my other suggestion is that we find out whether the AWWA Standards and/or the Ten State Standards are mandatory or simply suggestions. Again, my understanding from our past discussions is that they are not mandatory, but are suggestions. Third, I found out from Steve that alternative locations for a tower, if we decide we want to propose a tower again, were not part of his study. The only town records of the Master Water Plan exclude the last location that was part of the Referendum. I would like to recommend that additional sites be considered, other than the site on Atlantic Street, which in my view, at least, is not an ideal location from an esthetic standpoint of entering the town through a humongous water tower and it may or may not be an ideal location from an engineering or any other perspective. I know it was a convenient location. Lastly, I wonder if that location would be affected by the Dogfish new request to build a new well, some place probably pretty close to where the site had been in the Referendum. So I'm wondering if the Dogfish Head application has any implications with respect to that location. That's all. Thank you very much.

Mayor Newlands: I do remember during the CABA Associates presentation them talking about the Ten State Standards and the Fire Marshall requirement; I don't know if it's a requirement or a recommendation. We'll find out.

Sam Gard: But the way I understood it was parsed, that there were two separate recommendations and/or requirements and that our system currently meets all of the Fire Marshall's requirements. That was my understanding. What I heard Steve say tonight was that the Fire Marshall's suggestion; I don't remember if he said requirement or not, was one full day's service, in the air. And we don't comply with that.

Mayor Newlands: Right.

Sam Gard: So we need, in my view, to understand what are the minimum requirements by law and do we or do we not meet them; and if we do not, that needs to be told to everybody so that we have the opportunity to comply and if we do, that also needs to be, because then it becomes a choice. We have a lot more to say about how much we need in the air, if we're in compliance with the law currently. We're not in compliance with a suggestion or a recommendation, but we have other ways to take care of it. We have generators in case of a loss of power; we have pumps that are adequate; so to me it's fairly important to parse that and make sure that we understand what the requirements by law are.

Mayor Newlands: We'll get that defined, number one. Number two, though, you have to remember that it could affect your insurance rates. I'm just throwing it out there.

Sam Gard: Where I was raised, compliance with the law was not an option that considered insurance rates. You either comply or you don't. And if you choose not to, you've chosen some poison that I would choose not to take in a Referendum.

Mayor Newlands: Thank you.

- c) Jim Walu, 30263 East Mill Run, Milton, DE: First of all I would like to commend the council members who voted for the Public Hearing this evening. I think it was a good thing to do and I think the fact that we had a Public Hearing has laid to rest concerns citizens might have had things were going on there that we didn't know about, but that maybe the residents of Heritage Creek had some real problems with. There were two issues that I don't think have been addressed and that could be because they have been addressed before this meeting. One was, I know there was a concern about finishing paving of the roads, where the residences are already completed and there was also a question a month or two ago, about the construction entrance for the new construction to go on. I don't know whether that construction entrance has been pursued by Schell Brothers; whether they have the permits from the State; you know, a further construction entrance. I think that's an issue that I thought was important and it was going to be part of the Public Hearing. I was a little surprised by two of the members of this Council, who did not vote for the Public Hearing, because I think this Public Hearing has opened up the town with a transparency and an openness so people feel comfortable going forward, that what has happened tonight is indicative that what was being proposed is acceptable to the community and I think that's a good thing; but now we all know it and if there had been some real dissent, I think we would have known that too. Going to Mr. McCabe's report and looking at alternative water sources, just a thought occurred to me based after Ginny Weeks' presentation, is there a possibility that Dogfish Head could make a contribution to the town by using their well as an alternate, additional, emergency source of water in case the town needed it, at least for fire prevention? It wouldn't be triggered for water, probably. I don't know how they treat their water for beer purposes... Before they add the hops.

Mayor Newlands: Just to let everyone know... You can't mix their system with our system. You can't mix untreated water in our system. It's not going to work.

Jim Walu: Pardon?

Mayor Newlands: You would be mixing untreated water in our system and you can't do that.

Jim Walu: I presume they're not treating it to drinkable standards, but we don't know

that.

Mayor Newlands: It's not chlorinated, because they don't want the chlorine in their beer.

Jim Walu: Okay. The other question I have and I just may have not been in the loop enough of what's going on in this town, but you have an item on the agenda tonight of Old Business, dealing with Shipbuilder's purchase of lots and I'm not sure how that got on to be Old Business, because I don't know that there's been a presentation to the town's citizens of what the proposal is that's going to be discussed.

Mayor Newlands: It was on the agenda at the beginning of the month.

Jim Walu: Pardon. Pardon.

Mayor Newlands: It is Old Business because at the beginning of August it was on that Agenda. The August 6<sup>th</sup> meeting we discussed it as New Business.

Jim Walu: I mean, did you discuss what the price was, how the property was going to be used?

Mayor Newlands: We didn't discuss how the property was going to be used, we discussed what the price was and what was being offered to us.

Jim Walu: Okay, well, then I have not been in the loop enough. Thank you very much.

Mayor Newlands: Thank you.

- d) Ed Hoff, 250 West Shore Drive: I came here tonight, I wanted to speak briefly about this State and the completed physical audit, but I see some people have trumped me. You're passing around copies, I saw, but I still have the original. If you haven't read it, I would urge you all to read it. It should be mandatory reading for any citizen of Milton. For me it shed a lot of light on things. Mainly, it told me about the legacy that the last administration had left to us and the way it was handled. What it won't tell you, is the work that Councilman Lester put in and the many hours that Mayor Newlands put in; many, many hours and if you would, I would just like to say thank you to both of them for their tireless efforts in getting this thing straightened out so we can move forward. So now is a time not to hold your applause. I would also like it read into the record, in case somebody missed it, they can get it.
- e) Jeff Dailey, 211 Grist Mill Drive: Last Council Meeting I asked a question referring to the newly issued audit for the year 2010. It said Total Net Assets from that audit report for fy2010 were \$4,505,000 and I asked what are our total net assets and no one could answer, so I'm hopeful that given the intervening weeks I could be told what are our total net assets for 2012? As of this moment. Councilman Lester you had left to use the restroom and when you came back and the question was put to you, because I think Mayor and others felt that you could answer it. So it's been since August 5<sup>th</sup> and I'm just curious what are our total net assets?  
Councilman Lester: Actually, I didn't hear that and I have that information at home.  
Jeff Dailey: I apologize. I apologize. So we don't know.  
Mayor Newlands: It's know, it's just not here.  
Jeff Dailey: Um, okay.  
Mayor Newlands: We don't keep our file cabinets here, sorry.
- f) Ed Kost, 230 Sundance Lane: Mr. Mayor, during your discussion with Heritage Creek you mentioned that town would take part in fixing streets in various sub-divisions. Obviously that's why I'm here, our sub-division. What I would like to do is to present to

Council when I'm done speaking, a request from our Street Committee to the Council. What we would like the Council to do is exercise your powers to do the following: 1) the missing fire hydrant, according to the punch list on Summer Walk. We're missing stop signs and speed limit signs. These are things that were approved in the final sub-division plan of Phase 2. We have a valve box, installed in a handicapped ramp. This is a tripping hazard. This is where people cross the street, the valve box is sticking up and it's in the punch list that CABA Associates prepared. We're missing street lights in front of our community building. At Village Center Boulevard and Dorsey Lane, both these streets flood every time it rains; the water doesn't go away; we have to wait until it evaporates. In the wintertime, these puddles freeze and become a driving hazard. While you were at the workshop, we walked around and we visited and went past the intersection of Adelaide and Village Center Boulevard. You noticed the one man hole sticking up; it sticks up approximately 5" above existing paving. It's a driving hazard. That whole intersection is the most dangerous driving hazard we have and it's the most heavily traveled intersection within our sub-division. What we're asking you to do is under the Code, yes, under the Town Code, you have the power to order the developer to fix these things. We're asking you to order the developer to do it. We're also asking if the developer doesn't do it within sixty (60) days, that the town should do the work. Under Section 32...

Mayor Newlands: That ain't going to happen. I'm sorry.

Ed Kost: Well, we're hoping, you know, that you can order them to do it. You have the authority under Section 32 to do the work for him and bill him. It's in the Code. I'm sure your attorney could look it up. I'm going to give you copies of it. What we would like to do is see something done. We've waited eight years. At the rate things are going, we don't want to wait another eight years before we see any work done at all. We're seeing nothing. We've lived with this a long time and we're requesting, please, action. Thank you.

Mayor Newlands: If these are your hot button items, we'll look at them. The hydrant, by the way, is not missing, correct? I think the hydrant is behind some grass or something and needs to be cleared out.

Ed Kost: I don't know.

Mayor Newlands: I know it's in the report, but I've had subsequent conversations with Mr. Atkins and it's not missing, I think it's just covered with some brush that would have to get cleared.

Ed Kost: If that's true, that's great, but I walk through that area once or twice a week and I've had the punch list and if it's there, I would like someone to point to it and say then I'll apologize.

Mayor Newlands: It's on the Mariner's school side, from what I understand. Right?

Ed Kost: Yes, that's where the sidewalk is. We have sidewalks on both sides. Anyway, thank you very much.

Mayor Newlands: Thank you.

- g) Mike Cote, 304 Grist Mill Drive, Cannery Village: And you got Ed and I in the opposite order tonight. I have two things I wanted to do and one was to thank the Mayor and Council and the Town Manager for the workshop visit that they did at Cannery Village because I am a member of the Ad Hoc Addressing Committee, but I'm speaking as a resident of Cannery Village. But we want to thank you for coming and looking and

taking the time and the walking, because we all feel that you have a better understanding of the problems that we're faced with out there with emergency vehicles not being able to find some of the addresses. So we thank you. I think the residents who were there felt that this was good progress toward a solution and we just need to finish it by getting the work done.

Mayor Newlands: I have a much better understanding of the problems since the last meeting, believe me.

Mike Cote: It's unique and it's confusing. The second item was the State Auditor's Report and although we might differ on one item in there, is that it was alluded that it was the previous administration that all the problems happened under and some of the readings says it wasn't the previous administration, it was previous administrations; because the problems go back years but the one that sticks for me is in the opinion paragraph of the letter where it talks about \$1.3 million in a suspense account; which means somewhere in the records we have an account of \$1.3 million of something, but we don't quite know what it is yet. I have to assume that there will be more adjustments going forward and I do know that both the Mayor and Councilman Lester have worked at trying to sort through that and it's not so easy if, as the State Auditor said, some of the records just aren't there and you can't... Accounting issues don't get resolved by a conversation with somebody who says yeah, I think I remember doing that. They get resolved by documentation and if it's not there, it makes the task difficult, at best, and maybe closer to not possible. Councilman Lester?

Councilman Lester: Excuse me. You're partially correct that some of the problems we have do go back for years, because I think there was a basketball court that's listed back in 1958 that was carried forward; there are a number of items like that. Unfortunately, the bulk of the items that had to be adjusted, in terms of assets, were related to the sale of the sewer plant. That was about \$800,000 or \$900,000 of the assets that in 2007 were sold. Some of the other assets we ran into... And the thing that actually caused me to look at it closely was all the new park equipment was listed. The old park equipment wasn't taken off. Now the people that kept that depreciation was not the town. That depreciation schedule was prepared by the outside audit firm. So they maintained no records. The members of Council, the bookkeeping staff, were supposed to look that over, so nobody looked at anything. They just added things willy nilly and never removed anything, so that was a major part of the problem and as it relates to the park, I think the Mayor's been trying to figure out what happened there. A lot more money was spent, then is reflected, in terms of assets. So that's been a problem. And you also mentioned that suspense account. There was a payment made and I think it's in that article in the paper; the payment was made to pay off... It was a delinquent payment to pay off a State Revolving Fund note and that money went through the books. First it wasn't recorded through the system. It was recorded off the system of the books. Those monies went through the books. As far as I can find right now, that four or five times, in different entries, it went in, it got reversed, it went in, it got reversed, got moved to somewhere else. Ultimately, I guess the outside audit firm did not want to spend the time to find out what happened to all those entries and they popped that into Suspense. But it didn't increase Suspense, it decreased, so in my opinion, the suspense account is maybe \$400,000 higher, then the \$1.3 million and it's just because people made entries. They didn't know what they were doing and simply didn't take the time to follow the trail. I think you know you can follow the trail. All it takes is a little bit of time. You can follow

one entry to the other and what's difficult to determine about the suspense account, if somebody couldn't figure out what to do with the number, they would put it in suspense. Don't look for it. You know. If my entry doesn't balance, we'll just put it in suspense. That made it balance. So the State Auditor's had a hard time with that. They couldn't... And it comes to a point, just like with everything else, what becomes cost effective; do we spend a year looking for this money?

Mayor Newlands: It's not money though, it's entries, it's not money.

Councilman Lester: It's entries, but ultimately well it's related to expenses that may be showing up in... It's expenses that over the years have been misclassified, really.

Mike Cote: So ultimately that's still on the books and remains to be adjusted?

Councilman Lester: I think the only place it could be adjusted – we haven't talked to the new audit firm yet, but I think the only place it could be adjusted is in Fund Balance, if we go looking forward to it. And what they did in the past, they adjusted it for the Audit Financial Statements and made it go away, then October 1<sup>st</sup> they brought it back again, into the books.

Mike Cote: Thank you for that insight.

Mayor Newlands: Thank you, Mr. Cote.

4. Call to Order – Mayor Newlands called the meeting to order at 8:16 p.m.
5. Moment of Silence – Mayor Newlands
6. Pledge of Allegiance to the Flag
7. Roll Call – Mayor Newlands

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

8. Additions or Corrections to the Agenda  
Mayor Newlands: Do we have any additions or corrections to the Agenda?
9. Agenda Approval  
Councilman West: I'll make a motion to approve the Agenda.  
Councilman Lester: Second.  
Mayor Newlands: We have a motion and a second to accept the agenda, as amended. All in favor say aye. Opposed. Motion carried.
10. Old Business – Discussion and possible vote on the following items:
  - a. Approval for the revision to the Record Plan of Heritage Creek Phase 2B  
Councilman Lester: Mr. Mayor, I move that we approve the revision for the Record Plan of Heritage Creek Phase 2B.

Councilman West: I second that motion.

Mayor Newlands: We have a motion and a second to approve the revision to the Record Plan for Heritage Creek Phase 2B. Do we have any discussion? Since this is a Record Plan, let's do a roll call vote:

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

Mayor Newlands: The motion is carried.

- b. Vote on offer to Town to purchase seven Shipbuilder's Village lots with the clubhouse

Mayor Newlands: The next item is just really to discuss the offer for the town to purchase the seven lots in Shipbuilder's, plus the clubhouse. We went out on a field trip last week after we went to Cannery Village, just to survey the clubhouse and the property around the area in Shipbuilder's. The bank is offering it to us somewhere south of \$200,000, with a no money down loan. We don't know the terms of the loan yet. We've had an appraisal done on the property already and Mr. Abbott, did we contact an engineer to check on the property?

Win Abbott: On the condition of the building itself?

Mayor Newlands: Yes. I'm sorry, the building. Yes.

Win Abbott: No, we did not contract for a building inspection in the past four days. No we did not do that yet.

Mayor Newlands: So we need to tonight, if we're going to go forward with investigating the rest of this...

Councilman Booros: Yes I think part of investigating this, is you should include the Parks Department, just for future reference. I mean you have a lot of members of the Parks Committee that have not met in awhile and they might be interested in...

Mayor Newlands: Actually what I'm going to do is to ask for somebody on Council to be the champion of this project and take it on as a project. Because I don't think we have...

Councilman Booros: That's swell, but I still think you should involve the Parks Committee.

Mayor Newlands: Oh yes. Yes. That's fine. I think that person who takes over this project should be the one to do all that and coordinate that. I don't think in Town Hall we have the time to do that and I don't have the time to do that either. I don't if anybody wants to volunteer to take on a project, as far as...

Councilman Booros: Councilman West and I will be co-chairs of that little sub-committee and we'll do it.

Mayor Newlands: Okay. That's fine. Good.

Councilman Booros: Because we're also both on the Parks Committee.

Mayor Newlands: I know that, okay.

Councilwoman Jones: But you are looking for a recommendation for an inspection prior to locking in an offer amount?

Mayor Newlands: First I would like to do the engineering study regardless. That's the

first thing and then I would like Councilman Booros and Councilman West to look at what are the potential uses of the property, both the clubhouse and the property. If the building is no good and has to come down, it changes the game a little bit.

Councilman Booros: Absolutely.

Mayor Newlands: If the building is useful and it has certain reconstruction that needs to go on, we need to know that, as well, to know what the cost of that is. The bank will actually lend us the money to do that, so it won't be a cash outlay, but it will increase the mortgage and from that we would determine if it is useful; what we can do with the property and the building. If it's useful we'll go forward with the project.

Seth Thompson: The one thing I would note is from a legal perspective we are in a little bit different scenario. Most people probably recall when they purchased a home, you would typically enter into an agreement of sale and there would be various contingencies and very often those are the inspections and whatnot and that's the more normal protocol. I gather based on the fact that this property isn't, well let's call it unique and potentially has a small pool of purchasers, I suppose. It sounds to me like the Council doesn't want to go that route and that's fine. The only thing I would just encourage would be that we get licensed to enter onto the property and whatnot, rather than doing a full agreement of sale. It sounds to me like it would be difficult to come up with a number anyway. Very often if the number could swing significantly if the building is a plus, then that's... If it's not a plus, it's often a minus. So that's a pretty large swing.

Mayor Newlands: We'll talk to the bank about getting permission to go on there.

Councilwoman Jones: Do you need to really recognize someone to look into the project, until we get this inspection finished?

Mayor Newlands: Well they can start the ball rolling. If anything else, if the building is not useful, but the property, for some reason has a value to it and the building can come down and you can still use the rest of the property, that's what they'll be doing as well.

Councilwoman Jones: Will you gentlemen be taking public recommendations?

Councilman Booros: Absolutely.

Councilwoman Jones: Okay. Thank you.

Councilman West: Since when don't we?

Councilman Booros: I hope everybody in a blue T-Shirt comes to the first Parks Committee Meeting and...

Seth Thompson: I don't know if you want to approve the cost of... Any idea of what the inspection is going to cost. I mean, a typical home inspection is fairly cheap, the only thing is we're dealing with a larger parcel obviously.

Councilman Booros: Yes, but there's no kitchen and there's no bathroom and there's no plumbing and no anything else.

Councilman West: No lights.

Councilman Booros: There's no lights. It should be a pretty cut and dry, structurally is the building worth keeping?

Mayor Newlands: It's structural issues mostly.

Councilwoman Jones: So you're talking about looking for a cap on the value of a home inspection, when the motion is made?

Seth Thompson: It doesn't matter to me. It's just something to consider obviously you're going through a budget process, as well, so it would be good to factor that cost in and actually approve it.

Councilwoman Jones: Do we have anybody in mind that does this, or has ever done this, for us?

Mayor Newlands: Well it's really a... Mr. Abbott, go ahead.

Win Abbott: Thank you, Councilwoman Jones, for asking for clarification. I was wondering if we were going to differentiate between a home inspection of a commercial type building and an engineer contract that the Mayor mentioned. Just so I know what kind of person to contact to do this service.

Mayor Newlands: Yes, I wouldn't think it would be a home inspection, it would be more of a commercial engineering inspection. It is a bigger structure.

Councilwoman Jones: Well I don't see the difference in the size of the building, just that, I mean certainly a home inspector has his credentials to be looking at the structural integrity of the building, the layout of the land, what else are you asking the inspector to look at?

Councilman Booros: Mold. Is there mold? Is it moldy?

Councilwoman Jones: Yes, but what are the qualifications of an engineer to look at mold more so than a qualified home inspection person.

Mayor Newlands: They're different. Engineers have large degrees and different qualifications than a home inspector does. It's just a better quality inspection with an engineer, I would think.

Councilman West: We could put it out to bid.

Mayor Newlands: It's going to be a grand. I mean, it's not going to be a lot of money.

Councilman West: I know.

Councilwoman Jones: I think it ought to be well under a grand.

Councilman Booros: A home inspection is going to cost you \$500.

Mayor Newlands: Yes, so, do you want to put something on the...

Councilman Booros: There's nothing there. It's a big... It's one big empty room.

Mayor Newlands: An empty shell. Yes.

Councilman Booros: And God knows everything's viewable. You can see the rafters, you can see...

Seth Thompson: There's no concern in terms of prior uses of the land, underground storage tanks, anything like that that would require anything beyond inspecting the structure.

Councilman West: No.

Mayor Newlands: I mean we can put a motion together to cap it at \$750, \$1,000. It's not going to be a lot of money.

Councilwoman Jones: And do you have someone in mind?

Mayor Newlands: No.

Councilwoman Jones: How do we find that person?

Seth Thompson: I would suggest we not name the person in the motion, otherwise it's going to cost \$750.

Councilwoman Jones: And I agree. I just wondered how we came about deciding on an engineer, as opposed to a home inspector?

Seth Thompson: Do you want to authorize the Town Manager to, I gather, seek the best value and make that determination? I think that seems like something...

Mayor Newlands: Yes.

Councilwoman Jones: I make a motion that we turn over to the Town Manager the decision to look into a professional best qualified to inspect the property, the seven

parcels of property, most specifically the clubhouse at Shipbuilder's Village, with a cap of \$750.

Councilman West: I'll second that motion.

Mayor Newlands: We have a motion and a second to have the Town Manager find the best qualified professional to investigate the property and building at Shipbuilder's Boulevard clubhouse area and cap it at \$750. All in favor say aye. Opposed. Motion is carried.

Councilman Lester: I'm sorry, I was sleep. I was opposed to that. It's just a silly thing to do.

Mayor Newlands: I'm sorry.

c. Vote to apply for Water System Improvements Grant

Mayor Newlands: Do you want to go over, Mr. Abbott, the letter we got from the Health and Human Services about our loan and they're willingness to lend us money?

Win Abbott: All council members received a letter in their packets which I received just a few days ago. This letter came from the Director of the Office from which we would receive a State Revolving Fund loan, the Drinking Water State Revolving Fund is it's name. After review of the information about our fiscal year 2010 audit, that office has concerns about our financial ability to meet our obligations. They have suggested that we do pre-apply for an State Revolving Fund funding loan so that we have the project description in their office as we progress towards increasing our financial accountability and that we follow-up with the State Auditor of Accounts as we make improvements, which of course, will be documented over the course of the next few months as fiscal year 2011 and fiscal year 2012 audits are done. However, as a final point, they're saying that at this time, they're not in a position to loan us money for that.

Mayor Newlands: But they're also recommending that we go ahead with the pre-application.

Win Abbott: Yes. They do say they would like for us to make a pre-application, although at this time they're not inclined to loan us money.

Mayor Newlands: So they don't want us to lose the momentum of this project.

Win Abbott: Not only that, but it's in that office's best interest to show their funding agency, the EPA, that they're doing their due diligence with the people that they loan money to.

Mayor Newlands: Right. Okay.

Councilman West: Are you ready for a motion?

Mayor Newlands: Hold on a second.

Councilman Booros: I've got a question.

Mayor Newlands: Yes.

Councilman Booros: Do you want to hear my question? How can this Council vote to do a pre-application for money when five months ago this town voted no on a Referendum to borrow money to make improvements to the water system? Five months in this fiscal year, they voted no to borrow money for improvements to this water system and here it is five months later, same fiscal year, we're going to fill out an application to start this process again; when we haven't found the 44 million gallons worth of water. We're making strides, we're replacing pumps, we're doing things; but to jump the gun and start this process again in the hopes of pushing us through to another Referendum, when quite honestly, I've voiced my opinion in the beginning. We didn't know about that State letter

dated December 10<sup>th</sup>; we didn't know about the missing water; all that stuff and you pushed us through one Referendum and I'm not saying you know, I'm just saying that this Council and these people in this audience didn't know; to start this process again with no better information then we had a year ago after the people in this town told you two to one No. How can we even think about borrowing this money again?

Mayor Newlands: Because right now what happens is this is a two-year process, I think, before we get approved for this? Last time... Because the money we were going to get approved for...

Councilman Booros: I don't care. I'm saying the people in this town said no.

Mayor Newlands: It takes two years.

Councilman Booros: What right do we, as a Council have, to bring this right back five months later in the same fiscal year and do a pre-application and start this whole process over again?

Mayor Newlands: It doesn't cost any money and we've just saved time. It takes a two year process. Go ahead.

Councilman West: John, this keeps us in the loop.

Councilman Booros: They told us in the letter that we got today, our finances suck so bad, we're not going to get the money.

Councilman West: It keeps us in the loop to be able to get the money though John.

Councilman Booros: So why are we even bothering?

Mayor Newlands: That could change with the new audit that will be out shortly; in a couple of months. That could all change. And depending on the steps we...

Councilman Booros: That's fine. Voting on this pre-application is one thing; I don't want to see these people pushed into another Referendum, spend all that money, have 100 different reasons why we're billing everybody's salary to the Water Department because of all the water issues tied up to the Referendum and the voting and the billing and how much time each person is spending on it and raping the water system money; our only money we have we're billing everything to and a lot of it was that Referendum that we ran this town through for the last year; where they said no. I just don't understand why we're going to start this process and I've been informed by people on the Water Committee that the dates are already set to run us through the next Referendum; the dates are already set.

Mayor Newlands: Not by me. I don't know what the dates are.

Councilman Booros: Well, here's the first one. And that's what it's pointing to if it's over \$500,000, I assume.

Mayor Newlands: Right. We need a referendum if it's over \$500,000. But to get this thing started again, we were two years to get to this point, so we're going to lose two years if we don't start this process now. Because we started this process in August of 2010, is when we submitted the first application to get us here; to get us to the referendum in March, we started in August of 2010. So it takes a long time to just get through this process and it doesn't cost us anything as far as filling out applications and paying for the applications and things. It costs a little bit of manpower time.

Councilwoman Jones: A basic question, but this application, I don't object to as Councilman West said remaining in the loop; but absolutely what are we applying for? What is the project that we're going to make known to the State that we would use this money for or do we not have to declare that so early? This is quite an application process.

Win Abbott: That's a very good question. If you'll read within that application, it's not one of those big blank spaces that you write in an answer, but within that it says that you have to include a project description. That's the reason why I gave you that template, that table, so that Council might work through what you feel are your priorities so that I might give a description to the proposed project whenever it is that we go through. So, now, I think September 14<sup>th</sup> is my drop dead date for this, but the reason why I gave you that table and it's blank, is because I didn't want to presume what your priorities would be. Also we're getting more information every day. These guys are working tremendously hard. Dustan just finished this afternoon all six miles of that old pipeline. No leaks. So, for example, while it might make sense as a preventative measure to replace water mains in some of the older parts of town, like Front Street, or Atlantic up here in this corner of town, that's not necessary, because we went through all six miles and found zero leaks. So according to Mr. McCabe's recommendation, supply is something that we might look to, so you might turn to, I think it's Appendix E, or whatever it was, F had your Capital Improvements, which I don't think that we need right now and we weren't sure about a couple of weeks ago and then you could look at E and you can say okay, well at least our project description we want to describe that we want a new well. Not knowing exactly where it is, if it's improvements to Well No. 5 or a new well, there's a dollar value associated with that. Yes. We also want that loop, that connector, from West Wagamon's over to Chestnut Street and that takes care of some issues. Yes, that's what we want. This is the process that the Council, together, can decide, the priorities and that's why you got that back template. Yes. It's a very good question. What is it that we're going to pre-apply for, even if it takes two years and that's for you all to decide.

Councilwoman Jones: So the money could be used for essentially some of the recommendations made by the Pennoni Group that we heard this evening.

Win Abbott: Yes and that was the expectation that the State Office of Drinking Water had when they gave us the money for this planning grant; that you would actually decide to do something.

Councilwoman Jones: It's redundant, but I'm going to make it in the form of a statement. By applying for this pre-application, we are not driving this towards a referendum for a new water tower. Correct.

Win Abbott: If you don't put a water tower on your project description, then it is not. If you do put a water tower on your project description, then it is. In all cases, these things are going to exceed our \$500,000 threshold and at some point a referendum will be necessary. What you choose to put on the list is up to the Council.

Councilwoman Jones: And it also states here to name a consulting engineer for this project. Has the Town of Milton entered into any negotiations with any engineering groups to be named in this project?

Win Abbott: No, but that is a necessary thing for the Council to decide before I can put in that application.

Councilman Booros: In the next two weeks?

Win Abbott: That is correct.

Mayor Newlands: That's got to go out to bid, that's not going to... That's too large to do with Council.

Councilwoman Jones: And very little time.

Win Abbott: Yes, two weeks is pretty short for us to bid that kind of thing.

Councilwoman Jones: So logistically how is this going to be launched Mr. Mayor in that period of time, and doing it professionally and well and having the players in place so that Council, as well as the residents understand that the jumping off point in this pre-application.

Mayor Newlands: We just wanted to bring this before Council because we're time crunched with this and we just got the presentation today, so we have decisions that we can make or we can put this on the next agenda, but we're not going to get a bid from an engineering firm to do this. We're not going to be locked into an engineering firm anyway, are we? I don't know how they can ask for an engineering firm. He's shaking his head. The engineer is shaking his head no.

Councilwoman Jones: Well it's pretty high up in the instructions.

Mayor Newlands: Yes. You look like you want to say something.

Seth Thompson: It doesn't have to be bid, your professional services, it's not mandatory. Of course there is obviously a benefit to bidding, typically you get a cheaper price. A suggestion and this is obviously not something within the realm of the legal opinions, but perhaps we could contact the State and see if there would ever be an issue if the engineering firm named on the application were to change by the time the process is through.

Councilman Booros: Let me ask a question? Is any monies going to transpire between... You said this doesn't cost us anything to file the application. Is there a cost to an engineer of record, just to stick an engineer's name on there? Like you said, we can check with the State to see if we can pull the engineer, switch engineers mid-stream, or if they decide to deal with us. What is the cost of an engineer just by filling out this pre-grant application?

Mayor Newlands: Mr. Kerr.

Bob Kerr, CABA Associates: If I remember correctly, last time we did it at no cost to the town. It's something that takes us a couple of hours to do and we did it at absolutely no cost to the town.

Councilman Booros: So it's just a name of record.

Bob Kerr: It's a name of record.

Councilman Booros: There's nothing going to be happening.

Bob Kerr: Correct.

Mayor Newlands: Correct.

Bob Kerr: And typically for a project of this size, it's done through a qualifications based selection, not a priced... The State has a very long procedure that you go through to select professionals for this size job.

Mayor Newlands: I think if we leave the water tower out of it, we'll be missing another year on this whole process. You can always pick and choose later on what you don't want to do.

Councilwoman Jones: You can say that without question that if we put water tower on here and it looks like we can get to where we need to be without it, it can then be amended and the State will honor that.

Mayor Newlands: They're not going to force you to build a water tower. You want to say something?

Bob Kerr: If I may, Mr. Mayor, it may be pure speculation, but if you would check with the state, perhaps submitting two applications. One for items a and b; one for item c; because part of this is being put on the priority list. Last time you scored very favorably

on the priority list and the priority list has two parts to it. They rank everybody by need and then they start adding up the money and you might have a very high score, but three or four people above you have a higher score; they draw the line when they run out of money. Later on in the process, if somebody drops out above you, you could move up, but it could be that and again we would have to check with the state, but your desires for column a might score very high and column b might, or it might be the other way around. It's all how they go through their scoring process looking at your system and I don't know all of the particulars about how they score. It's kind of done in a back room. I don't know that there's a published – how many points you get for this or that.

Councilwoman Jones: So just to clarify, your recommendation would be that one pre-application might be for the water improvement issues that were brought here to us tonight and another might be for the tower. Or am I not understanding that?

Bob Kerr: No. All of those issues were originally in the last one and essentially you pulled a couple out. I haven't heard anything tonight that wasn't, at least in the last few minutes of you talking about, that wasn't in the last one, it's just dividing it into pieces. That also gives you the ability to possibly delay a portion of the project that 2014 you're doing column a, 2015-2016, because you keep applying every year so that you move up the list.

Mayor Newlands: We initially thought we were going to be on the list for two, three years before we got approved. That's what Allen swore to me that we would wait two or three years and then all of a sudden we got a call we're on top of the list. We did not expect to make the top of the list.

Bob Kerr: Other Town Councils are doing the same thing. They're applying for the priority list, see where they fall and then decide what they do. We have other towns that have also dropped their projects and number ten or eleven, oh we're not going to get anything this year; they're getting closer and closer to the top of the list.

Councilwoman Jones: Well from what we heard here tonight, and we may be two years out for this loan, let's just hypothetically say we got this loan for a water tower, and we still were possibly, if I understood the conversation earlier, maybe two years out on DNREC looking at our request to increase allocation. No? Yes? You did say that was a time, or new wells, there was a lot of time involved in that.

Bob Kerr: I believe Mr. McCabe said that this evening, but there is a process to go through for the allocation, as was stated earlier it was some time in 2009 that we submitted the request for an increase in the allocation. I don't remember what month, but some time in 2009. It was some time in mid-2011; it was almost two years to the date that we got the first response from the State and their first comment was you didn't use the 2010 census. It's tough to do when submitting in 2009. We responded to those questions and they came back with another group of questions. We responded to those, came back with the 2010 last letter. Essentially, I believe, and again I did not prepare for this this evening, but Allen and our office know the answers to everything except the missing water and that's when the search for the missing water; because part of what they looked at, it's in the letter, it's I believe 140 gallons per person, per day is what the allocation works out to and the State likes to see a number of 80-100... 100 gallons Allen is reminding me. I haven't done that for a long time, so where's his extra 40 gallons per person, per day coming from and that's what brought about the looking at meter readings, looking at all the records that the town has and have been working on that. The State wants to see in the 10-15% water that you can't account for and you're way above

that.

Mayor Newlands: Also, we're pumping 500,000-600,000 gallons of water a day. Okay? And we need a day's storage in the air, so we need another half million gallon tank. No matter what. It has nothing to do with new allocations or increased allocations. We don't need to have the allocations right away, if you put that other tank on line right now. We would be utilizing that tank. We would be filling it all once a day and draining it and filling it and draining it.

Bob Kerr: In essence, it truly is as the Mayor was saying, two separate issues. You're going to use the same amount of water per day, whether you have storage or not. The storage is there to help the pumps, give them some rest during the day, but the same number of gallons would still come in and out of your system each day. The storage is to have the peak periods covered. There are times and I, again, I wasn't prepared to talk this evening, but I've worked in other towns where around 4:00 or 5:00 in the afternoon, the only water in the tower was what was in the riser. When you get to the bowl, it was perfectly dry and there was one summer when they could almost tell each day that it was happening earlier and earlier each day.

Councilwoman Jones: Mr. Gard did ask a good question this evening, asking what the minimum standards are by law for the fire prevention. I took that as an open-ended question. Is that an established number by law and do we have that number and are we in violation and if we are presently pumping 600,000 gallons a day, are we in violation of our allocation, which is taking me away from pre-application. I understand Councilman Booros' issue of making another application, even with a two year window for a water tower.

Mayor Newlands: You need a window for all of it. None of this will get approved until January 2014 or something like that, or the end of 2013, somewhere around there.

Councilwoman Jones: Unless we were to be moved up again.

Mayor Newlands: No, we're not moved up. If you don't apply, you're not on the list. That's it. You don't get moved up.

Bob Kerr: You would drop off the list until you reapply.

Mayor Newlands: We're done right now. So we're off the list completely.

Bob Kerr: Sometimes smaller projects go through a little bit faster than the two year process, because they don't have to see how other projects impact it. If they have and I don't know how much money's in the pot, but if they have \$10 million and you needed \$8 million, that's not going to happen real quick. If you need \$500,000, \$1 million; the process can move a little bit quicker.

Councilwoman Jones: So I just want to understand from Mr. Abbott, that what you would like Council to decide on is, what is being applied for and that seems to be the most urgent issue at hand; if we can determine from the State that it doesn't matter what engineer goes on record and will Council then be deciding that in September or do you need that information well prior, our suggestions? Are we qualified to make those suggestions?

Mayor Newlands: That's what I was hoping Mr. McCabe was going to do tonight for us.

Councilwoman Jones: Except that we didn't pay him for that.

Mayor Newlands: I know that. Mr. Abbott, in Exhibit E, Mr. McCabe gave us three alternatives?

Councilwoman Jones: Are you in the Pennoni Associates report?

Mayor Newlands: Yes, the Pennoni Associates report, the last couple of pages, because

that's the shopping list. I think. It's the last two pages.

Win Abbott: Yes, Sir. Exhibit E is your shopping list, less the suggested capital improvements. You will note that Exhibit E does not contain one particular capital improvement that I think we've all talked about. I just want to be sure that you understand that it's something to be considered and that's something that doesn't exist right now and that is the connector between Wagamon's West and Chestnut Street; generally along the old railroad right-of-way.

Mayor Newlands: Everything in Exhibit F is not on the previous page, is it? It can't be, it's...

Win Abbott: Once again, Exhibit E is your shopping list, minus the capital improvements. I wanted to point out that on Exhibit F, with the star next to it, is one item that you might want to consider along with the rest of the things on Exhibit E. The other things in Exhibit F are suggested capital improvements but because of our leak study being completed, I don't necessarily see them as being a priority. The connector from Wagamon's West Shores to Chestnut Street, however, I would make a priority.

Mayor Newlands: Okay, so our shopping list is really Exhibit E, plus Item No. 3.

Win Abbott: Yes, Sir.

Mayor Newlands: The connection to Wagamon's West Shores. Okay. Thank you.

Councilwoman Jones: Did you name those as priorities on the shopping list, Mr. Abbott? On Exhibit E and number 3 of F, would you consider those priorities on this...

Win Abbott: Yes. I'm really trying not to steer your decision. You're provided with all the information, however, since we know that there are not leaks in other parts of the system, I would suggest that focus be made on Exhibit E and that one item on Exhibit F that has a star next to it.

Councilwoman Jones: I know.

Councilman Booros: On Exhibit E, alternative C, which was inter-connectivity with the private water supplier who would run a pipe here to Milton from 3-1/4 to 4 miles away from here, there's still no elevated storage.

Mayor Newlands: Correct.

Councilman Booros: So where does that help us in the scheme of things, when the Mayor keeps insisting that we have to have an elevated storage tower, no matter whether we pick alternative A or alternative C, we still have to have another elevated storage tank.

Win Abbott: If I may, Councilman Booros, it is an increased supply and those suppliers do have elevated storage. The Artesian has one in the back part. I think the community is called Beaver Dam. It's off of Route 9.

Councilman Booros: It sits on the ground, it's not elevated.

Mayor Newlands: It's ground storage.

Councilman Booros: It's a ground level storage tank which we went through with CABA Associates and we were told back during all that stuff that you don't want one on the ground, they're meant for little neighborhoods, big municipalities don't use them on the ground, so as far as I'm concerned, five miles away at Beaver Dam out on Route 9 to a pipe from an on ground tank to this town, is not even an option, because we can just dig another well.

Win Abbott: That's fine. That's why I gave you big blank sheets and you can cross off things.

Councilman Booros: I understand. I'm not directing this at you. I'm directing this at you.

Win Abbott: Okay.

Mayor Newlands: We talked...

Councilman Booros: Above-ground storage does not mean some tank sitting on the ground, because you could have probably gotten these people convinced to stick one in the woods back there, that nobody would ever see on ground level.

Mayor Newlands: The one in Beaver Creek only runs about 90 homes and they have a plan to put elevated storage a little further east on Route 9, when they have more need. They actually said to us that they would pay 50% of the water tower, if we would connect to their system and they want no responsibility for the water tower whatsoever, it's given to us as part of their investment. That's how they do their inter-connects, because they want the water going bi-directional, going both ways; so that's how they would get rid of that ground system is by putting up a water tower and funding half of our water tower, so that we could feed them if we needed to, or they could feed us if we needed to. Because they have other systems that they connect to. Milton is in the middle of two different systems. We have down Cave Neck Road to the east is Tidewater Systems with 10,000 customers and they have seven towers, something like that. South of us, down to Harbeson, is Artesian and they're starting to build up their systems down there and inter-connect them. The little one in Beaver Creek is just for the neighborhood. That's all it services right now. And they have plans on going further east on Route 9 and putting a tower up there. If they put a tower up; if they split a tower with us in town, we would own it, we would maintain it, it would be totally ours; they would pay for half of it and they would get rid of that ground storage at Beaver Creek. We would help feed them.

Councilman Booros: Why don't we buy the ground storage tank from them and stick it here in town?

Mayor Newlands: They don't support many homes, they're too small.

Councilman Booros: Okay.

Councilwoman Jones: As we look to this pre-application for this loan, what is the status of talking to the two water companies about inter-connection. Is that still an ongoing... Are we still doing that? Is someone still doing that?

Mayor Newlands: No. We had one meeting with each of the firms, just so they could gather information from us as to the topology of our system and what we have; they both mentioned inter-connections. Tidewater mentioned a one direction inter-connection and it's probably prudent since they have seven towers that would be coming at us. We wouldn't be able to fill that and give water back to them. Artesian said they would like to do a two-way connection and Artesian does this with twelve towns. Artesian has connections with twelve towns. They have towers in two of the twelve; they put separate towers in.

Councilwoman Jones: Well that's pursuing our options to just funding ourselves a water tower and a lot of water improvement and that's what I'm asking, are we aggressively, do we plan to aggressively still pursue our options?

Mayor Newlands: We wanted to have just the first two initial meetings with them and that's all we had.

Councilwoman Jones: Okay.

Mayor Newlands: Tidewater will be here September 10<sup>th</sup> meeting, just to do an update as to the rate increase, where they are with all their stuff and they'll give us more information on inter-connection.

Councilwoman Jones: And will Artesian be here for that meeting? I mean, if we're hearing from one water provider, I'd like to hear from both.

Mayor Newlands: We haven't set up anything to have like a competitive... I didn't want to do that without the engineers either. We haven't gone down that road yet.

Councilwoman Jones: I just want to make sure that making this pre-application does not now put any other possible alternatives so far on the back burner, that we do not continue to pursue them.

Mayor Newlands: Okay.

Councilman Lester: Mr. Thompson, if I may ask you?

Seth Thompson: Sure.

Councilman Lester: What's the downside for us to move ahead with this application? Some of this conversation tonight has been more obstructive than instructive. I would just like to move ahead with this and make a decision.

Seth Thompson: Well from the legal standpoint, you're not binding yourself to anything at this point, so in some way it's like getting pre-approved for a mortgage, that in essence you haven't actually applied for the mortgage, but you put yourself in a position that you could potentially do that. Legally you would need to pass a Resolution if it's going to borrow more than \$500,000 to set the Referendum. Obviously the Referendum would have to go through. This is not a two-step process obviously. In terms of the downside, I think it does take you out of the running potentially for a year. In terms of the upside, it maintains a possibility of moving forward.

Mayor Newlands: If this is a pre-application Mr. Abbott, when does the application go in?

Win Abbott: It usually comes back to us in December and is due in January.

Mayor Newlands: Okay, so when they actually have made the list up, pretty much, okay.

Councilman Lester: And our financial position is still NBT.

Mayor Newlands: Yes.

Councilman Lester: Hopefully, PK&S can give us a better report than we had before.

Mayor Newlands: Yes.

Councilman Lester: Otherwise, that's null and void.

Mayor Newlands: I mean, it's do something and get the ball rolling, or sit for a year and do nothing.

Councilman Lester: Yes.

Mayor Newlands: Or sit for a year and have meetings with people and talk about water towers and why we don't like them.

Councilman Lester: I make a motion that we complete this application and we apply for the improvement grant.

Councilman West: I second that.

Mayor Newlands: Do we want to go with Mr. Kerr's suggestion about of making two applications.

Councilman Lester: We can do that.

Councilman Booros: I would vote for that.

Mayor Newlands: If it's allowable. If it's allowable.

Councilman Lester: I amend my motion that we make two water system applications, if allowed.

Councilman West: I resecond.

Mayor Newlands: We have a motion and a second to fill out the applications for water

system improvement and, if allowed, make two applications and the two applications would be one for a water tower and one for everything else?

Councilman Lester: Yes, I think so.

Mayor Newlands: Let's get a...

Win Abbott: If I may ask Mr. Mayor?

Mayor Newlands: Yes.

Win Abbott: What is everything else?

Mayor Newlands: I'm sorry, alternatives a and c with Wagamon's and Chestnut Street.

Win Abbott: Very well, thank you.

Mayor Newlands: Thank you. Sorry about that. We were talking Exhibit E. Let's get a roll call:

Councilman Lester

Councilwoman Jones: Question. Discussion.

Mayor Newlands: I'm sorry. Yes.

Councilwoman Jones: The motion was made, if allowed, two funds applied for. What if not allowed?

Mayor Newlands: We have the September 10<sup>th</sup> meeting to deal with it.

Councilwoman Jones: And you'll decide on what to apply for?

Mayor Newlands: I won't decide, we will decide.

Councilwoman Jones: We will decide. Excuse me.

Mayor Newlands: This gives Mr. Abbott some time to fill out the applications, make some calls, see what they'll allow us to do and we'll be in a better position for September 10<sup>th</sup>. Any further discussion?

Councilman Lester	Yes on both motions
Councilwoman Jones	Yes
Councilman West	Yes
Councilman Booros	Yes
Mayor Newlands	Yes

Mayor Newlands: Motion is carried. Thank you all.

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

- a. Proposal to allow down zoning of properties from Light Industrial or Commercial to Residential to reflect the actual use of the area. Some residents are having issues refinancing mortgages because of their current zoning

Mayor Newlands: What happened was, we had a gentleman on Mainsail Drive, the homes near Dr. Wagner's office were initially listed as commercial. One of the homeowner's wanted to go for a mortgage, refinance and he was not allowed to; actually he couldn't get a regular residential mortgage because he was commercial. He came in, spent \$400 and asked for a rezoning. We rezoned him to residential. This has happened to somebody again on Chestnut Street. They wanted to refinance their home and they were denied a residential mortgage, because they were listed as Light Industrial. So that individual asked if we could do something about it. We looked at the properties behind then, Village Center Boulevard and the the town has Village Center Boulevard are incorrectly listed in our computer system as residential; that's how they all got

mortgages; they're incorrectly listed in our system. They are all in a Light Industrial area. So they all got through luckily, or this would have come up years ago, they got through getting their mortgages as residential, even though they're in a Light Industrial area. So do you want to explain quickly what we discussed with the state?

Robin Davis: As I stated in my memo, I contacted Brian Hall from the State Office of Planning Coordination to discuss the practical course of action. His recommendation was instead of doing these individually, one at a time, for us to identify all the properties in town that have a C-1, LI-1 and LI-1/LPD classification and have residential dwelling units on them; fill out an application for a mapping correction with these properties identified and go through the Plus Process. The Plus Process is required to make that change through the State. Once we can do that, we would have to notify the owners that there's a potential change or could be a potential change; they would have to say aye or nay whether they wanted to go through the rezoning process; then the town would go ahead and initiate the rezoning process for those properties. But sending all the ones through the Plus Process, Brian Hall said that would allow the owners at a later date, that maybe they didn't want to change at this time, to apply for a rezoning process, but not having to go back to a Plus Process.

Councilwoman Jones: How many properties are we talking about?

Robin Davis: There's approximately, I checked today, we have two churches that are zoned commercial. Normally churches are listed as residential. They're the churches on Route 16. There are, I think, six empty lots and the rest are residential homes on commercial properties and I think it totals about 60.

Councilwoman Jones: So all of these homeowner's have not contacted you. Again, they may not be on board, but doing this would preserve their right to come back...

Mayor Newlands: We're going to proactively go out to all of them, let them know what we intend to do, or what we're allowing them to do, so if they want to downgrade through zoning, we're going to allow them to do that; we're not going to charge anybody for it. We're just going to do the paperwork. So it's going to be like the tax amnesty that we did last year; we're doing this once and for as many homes as we can get in as possible in one shot.

Councilwoman Jones: So you see this as being advantageous to these homeowner's, as far as mortgage, if they want to remortgage?

Mayor Newlands: Oh yes, because they won't be able to get a residential mortgage with this kind of designation. If we don't do this, we have to go back to the Edmunds System and correct the Village Center Boulevard homes that are incorrectly marked as resident. We have to mark them as Light Industrial. They'll have a problem selling them and getting mortgages. So we need to do this. This was an oversight when Cannery was done and the brewery was done in 2003, 2004. That whole area – because that's Light Industrial all the way from the back of the brewery all the way from the back of the brewery, all the way out to Federal Street, where Reed Trucking is, that's LI all the way through and that little pocket should have been straightened out and been residential. And there's really Village Center Boulevard and Chestnut Street, which is the whole line, but we're opening up to anybody else in town because we're doing the paperwork. It makes it easier to do just do it, so what we're approving tonight is really just to do the project, open it up so Robin can get some lists up to the State Planner's Office and we can get some paperwork done and then start the process with the residents and when you hear about all this on the street, you'll know what we're talking about.

Seth Thompson: Just to kind of finish it off from a legal perspective. The use is different from the zoning. The use may be residential, but if it's zoned Light Industrial, it sounds like that's what the mortgage company is looking at. So the Comprehensive Plan needs to go through the Plus Process. It sounds like it's a mapping correction. We would then need to go through the process of amending our zoning map. I just want to make sure. We normally charge people for that application and that's really based on the fact that you have to send out notices to the neighboring properties and you have to publish in the paper and that sort of thing. It's designed to recoup those costs as well as our professional costs. I just want to make it clear, if you guys haven't crossed that path yet, if you're not dealing with that issue, that's fine.

Mayor Newlands: We charge about \$400 for these.

Robin Davis: It's a \$400 application fee.

Mayor Newlands: I can't see going out to these people and asking them for something that really should have been done in 2003. I can't see asking them to pay for it. And it's all going to get done and it's mostly paperwork and we're starting this project, not them. It's really correcting something that should have been corrected a long time ago.

Councilwoman Jones: Is there a significant cost to the town to convert these properties?

Seth Thompson: It will be those costs, your professional fees; granted it seemingly would be one hearing.

Mayor Newlands: Right.

Seth Thompson: So as far as my fees, they wouldn't be per application. The notices, I suppose you would be able to structure it so that obviously the notice in the paper could be one notice. It would be a lot longer. The mailings. I'll double-check your Code and the State Code to make sure that they can all be a bulk mailing, but you would still have some of those costs.

Robin Davis: There's no charge for the Plus Process.

Mayor Newlands: And Robin won't charge us either. I think it's something that we just need to do to correct the situation that was created eight to ten years ago and it's not the fault of the homeowner's, it's something that got overlooked.

Seth Thompson: There may be some homeowner's that want to keep that designation. Obviously if it's Light Industrial, they have a different set of uses that they're permitted to do, so in that sense, it might be a benefit to the town to get this corrected too, in that if you don't want to end up having a brewery in between two houses.

Mayor Newlands: Or an extra micro-brewery. So this would be to approve the project and the associated costs, which I would think would be nominal.

Councilwoman Jones: Can there be a down side in the long run for allowing one of these homes to remain Light Industrial in the middle of? That's my concern. You really hit on a point.

Mayor Newlands: He just said...

Councilwoman Jones: But you can't mandate that they change.

Mayor Newlands: No.

Councilwoman Jones: Because I'm also looking at the disadvantage for Milton if you do have a Light Industrial stuck in the middle of a residential issue – let's say everybody else converted.

Seth Thompson: I think you can mandate that someone changes, within the scope of the project. I'll have to double-check your Code, the State Code, but typically if someone objects, I want to say it creates a need for a super-majority. There might be, Bob, do you

remember off hand? I will double-check.

Mayor Newlands: I don't think it's something we need to address, just to approve the project. We can address that later.

Councilwoman Jones: We need to wait for Councilman Lester.

Mayor Newlands: Okay.

Seth Thompson: While we're waiting. It looks like and really your Code is mirroring what's in Title XXII, that if 20% or more of the owners of the affected area, basically the proposed amendment, or the owners of 20% or more of the area directly opposite within 100' of the street frontage of the affected area, if they object, then it would require a three-quarters majority of Council.

Councilwoman Jones: There are mostly pockets of these things stuck around, an occasional one, but pockets, right?

Mayor Newlands: You've got a couple of singles, Mainsail Drive has two; the biggest is Cannery; and some on Chestnut Street just behind Cannery Village.

Councilwoman Jones: Okay.

Mayor Newlands: That's the biggest section. I think. Is that right.

Robin Davis: Yes. You end up with I think there are 30 of these that are in the Chestnut Street, Village Center Boulevard area; there are five on Chestnut Street; I think six on Village Center Boulevard and the rest are Canning House Row. All of that area is now currently zoned Light Industrial/LPD.

Mayor Newlands: Okay, can we get a motion to approve this project?

Councilwoman Jones: I make a motion to allow Mr. Davis to begin the process of down-zoning of properties from Light Industrial or commercial to residential to reflect the actual use of the areas.

Councilman West: I'll second that motion.

Mayor Newlands: We have a motion and a second to allow Mr. Davis to begin the project of allowing the down-zone of properties from Light Industrial or commercial to residential to reflect the actual use of the area. Any further discussion? Since this is a zoning issue, let's have a roll call:

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

Mayor Newlands: Motion is carried.

- b. Dogfish Properties, LLC is requesting a waiver to install one (1) well targeting the Cheswold Aquifer in the Chesapeake Group of aquifers on parcel 235-20.11-52.01. The proposed new well will replace the existing 97 foot deep well currently in operation at the Brewery in the Columbia/Manokin Aquifer

Mayor Newlands: Do we have anybody making a presentation?

Tim Hahn, Brew Master at Dogfish Head Craft Brewery: We're seeking this permission as you guys all heard tonight from Mr. McCabe, so we can start the process of looking to put in another well where we're at currently. The well would be rated, other than changing aquifers, we've sampled your Well No. 4 for the city, there are some sulfur's

with it. What we're after is to reduce the nitrate and that nitrate treatment that we have to do as we get to those limits. As you mentioned, we don't want the chlorides and the fluorides that we see on Mr. McCabe's drawing in brewing water. It's not healthy for yeast, which is, of course, what we do. So we're looking to put this well right next to our current well, that's 95' in the Cheswold Aquifer. We'll do the testing, but we need permission to go forward with that, so that we can approach DNREC and start that permitting process which you guys heard today could be fairly long.

Mayor Newlands: How much water do you draw a day from those wells?

Tim Hahn: Right now, on an annual basis, and I can do the math really quickly; but on an annual basis, next year we'll draw just a little over a million and a half gallons over the course of the year. So we are on a ratio for every barrel of beer we make, it takes us about three barrels of water; every gallon of beer we make, it's about three gallons of water to make that.

Mayor Newlands: So that's not going to have any effect, Allen, on us at all?

Allen Atkins: They're drawing now and it doesn't effect us at all.

Mayor Newlands: We lose more then that in a quarter.

Councilman Booros: We're missing more then that.

Mayor Newlands: Okay. Questions?

Councilwoman Jones: Just a quick question. Any other... It's stated here very clearly that you would still be using the Tidewater system. You're still using the Town of Milton's water for any other uses, other than your brewing needs, is that correct?

Tim Hahn: Yes, the Town of Milton would be the same uses that we already do, which would be drinking water, sewer, for any kind of potable water. This is purely for us as for brewing water and brewing water only.

Mayor Newlands: They're domestic use is Tidewater.

Councilwoman Jones: Then I guess my question is, if someone here would explain to me the need for the waiver.

Robin Davis: In our ordinance, it says that all private wells must be approved by Council. So even though they do have an existing well, this is classified basically as a new well. So that was determining factor to say it should come before Council for approval.

Mayor Newlands: And you are decommissioning the old well when you put the new one in?

Tim Hahn: Once the new well would be installed, tested out and approved, we would decommission the old well for all State and Federal regulations.

Mayor Newlands: Okay. Is there any way we can use the well? No?

Councilman Booros: Can we borrow a well?

Mayor Newlands: Does anybody need to hear from the engineering company? The construction company is here, if anybody needed to talk to them, ask questions. No?

Councilwoman Jones: Mine is just one for the rules, are we setting any precedent here? It seems not, because we're just actually going after another well where there's a pre-existing well.

Mayor Newlands: Yes, we're really swapping wells and they have a need to be off our system because of the cleaning out. You don't even clean the tanks with our water, do you?

Tim Hahn: No all of our water comes directly off of our well.

Mayor Newlands: For brewing and cleaning?

Tim Hahn: All brewing, all cleaning, any water other than drinking fountains, toilets, and those things.

Mayor Newlands: For domestic use.

Councilman West: Mr. Mayor, I make a motion that we issue Dogfish Head the waiver to install one well, targeting the Cheswold Aquifer in the Chesapeake Group of aquifers.

Councilwoman Jones: I second that.

Mayor Newlands: We have a motion and a second to approve the waiver for Dogfish Properties to install one well, targeting the Cheswold Aquifer in the Chesapeake Group of aquifers. I guess we'll do a roll call:

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

Mayor Newlands: Motion is carried.

12. Executive Session on the following items:

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

Councilman West: Mr. Mayor, I make a motion that we go into Executive Session.

Councilman Lester: I second that.

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

- a. Strategy sessions involving legal advice from an attorney-at-law with respect to potential settlement of pending litigation Case No. N10C-08-221, due to an open meeting's adverse effect on the town's litigation position, and discussion of the content of records pertaining to the pending litigation which are not records of any court.
- b. Strategy sessions involving legal advice or opinion from an attorney-at-law with respect to potential litigation regarding town audits, due to an open meeting's adverse effect on the town's litigation position
- c. Personnel matter in which the competency and abilities of an individual employee will be discussed

13. Vote on items discussed in Executive Session

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

Councilman West: Mr. Mayor, I make a motion we come out of Executive Session.

Councilman Booros: Second the motion.

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

Councilwoman Jones: Mr. Mayor, I make a motion that we approve the proposed settlement agreement.

Councilman West: I'll second that.

Mayor Newlands: We have a motion and a second to approve the proposed settlement

- agreement. All in favor say aye. Opposed. Motion is carried.
14. Adjournment  
Councilman West: I make a motion to adjourn at 10:33 p.m.  
Councilman Lester: Second.  
Mayor Newlands: We have a motion and a second to adjourn. All in favor say aye. Opposed.  
Motion carried. Thank you all.