

City Council Meeting
Tuesday, January 13, 2015
City Hall Auditorium
7:00 p.m.

Call to Order

Meeting was called to order by City Clerk, Bonnijo Kitchin at 7:05 PM.

2015-003 Councilor Kelcourse Resignation – Declare Vacancy

Councilor Lavoie moved that the Council accept with regret the resignation of our New Representative, James Kelcourse, and declare that seat vacant in accordance with his written letter of resignation on file with your Office.

Councilor McMilleon seconded the motion and it was voted Unanimous.

2015-004 Appointment of Eric Bezanson to fill vacancy.

Clerk Kitchin explained that as our charter requires anyone who has 30% of the vote or more is eligible to take the seat as long as they have declared their intent to do so and Mr. Bezanson has done so. We are here to accept Mr. Bezanson to fill that seat as Councilor-at-Large.

Councilor McClure moved to accept 2015-004 the appointment of Eric Bezanson to fill the vacancy on the Council.

Councilor Sickorez seconded the motion and it was voted Unanimous.

Councilor McMilleon moved to take a five minute break for the City Clerk to swear in Mr. Bezanson. Councilor Lavoie seconded.

City Clerk Bonnijo Kitchin swore in Eric T. Bezanson as Councilor-at-Large.

Back in session, City Clerk, Bonnijo Kitchin, stated that the next item is for the City Council to re-organize. She explained that at the beginning of every year the Council is to re-organize according to our rules. She asked for nominations for President of the Council.

Councilor McClure nominated Councilor President Joe McMilleon for another term. Councilor Bartley seconded and it was voted Unanimous and the meeting was then turned over to President McMilleon.

Councilor McMilleon stated that at this time they would take nominations for Vice President of the City Council.

Councilor McClure nominated Councilor Sickorez. Councilor Bartley seconded.

Councilor Ferguson nominated Councilor Sherwood. Councilor Lavoie seconded.

Each of the nominees made a statement:

Councilor Sickorez stated that as a relatively new resident of Amesbury since 2005 he has fallen in love with the city and as a retiree he feels he can spend some time getting to know the way the government worked, why it worked and how it worked and see if he couldn't add his expertise to the mix. Since his successful election he has fallen more deeply in love with the city and what it represents. The people of this community are special and he looks forward to serving them and expanding his involvement in the city.

Councilor Sherwood stated that this is his second term on the City Council and has participated in the Charter Review Committee, the Master Plan Committee, served as a Public Library Board of Trustee member and shared the Adhoc Budget Committee a few years ago. He stated that he too has been here since 2005 and as demonstrated by the service that he has very happily offered he is very interested in helping out and supporting the community and furthering the interests of the residents and doing the best job that he can with that and in general moving Amesbury forward. He would appreciate the opportunity to expand his service. Working from home, he has a good bit of availability and is often able to participate during the day in matters here as town demands. He is looking for the support of his fellow Councilors to expand that service.

A Roll Call vote taken:

McClure – Sickorez; Moavenzadeh – Sickorez; Sherwood – Sherwood; Sickorez – Sickorez; Bartley – Sickorez; Ferguson – Sherwood; Bezanson – Sickorez; Lavoie – Sherwood; McMilleon – Sickorez
Sickorez (6) Sherwood (3) Councilor Sickorez is the new Vice President of the City Council.

Councilor McMilleon explained that bill 2014-107 (Chickens) is not a public hearing and that if there was anyone in the audience that wanted to speak on behalf of this bill they should speak during the Public Comment section of this meeting.

Pledge of Allegiance

Councilor McClure led the Pledge of Allegiance.

Roll Call

City Clerk, Bonnijo Kitchin took Roll Call. Members present were: Councilor McClure, Councilor Moavenzadeh, Councilor Sherwood, Councilor Sickorez, Councilor Bartley, Councilor Ferguson, Councilor Bezanson, Councilor Lavoie and Councilor McMilleon

Councilor McMilleon stated that Representative Kelcourse would like to make a few comments and he invited him to the podium.

Rep. Kelcourse stated that he wanted to extend his thanks to the City Council. He is grateful to have served the city and he stated that he would like to work on getting the R St. Bridge back up and running, work on the Rail Trail and getting more money for the School budget. He wants to work hard for the City of Amesbury which is a place where he grew up and very much loves.

Act on Minutes

Councilor Ferguson moved to accept the minutes for December 9, 2014 as submitted. Councilor McClure seconded and it was voted Unanimous.

Correspondence

- a. President/Vice President Communications

2015-002 Re-appointment of City Clerk, Bonnijo Kitchin with a term to expire 2018

Councilor Ferguson moved to re-appoint Bonnijo Kitchin as City Clerk for a reappointment to the office for an additional term of three years of office commencing upon the adoption date of this order.

Councilor McClure seconded.

Councilor Bartley thanked Clerk Kitchin for all her hard work and how gracious she is when she interacts with the council and the town.

Councilor Sherwood thanked her as well.

Councilor McMilleon agreed and stated that he consults with Bonnijo in regards to the agendas and what is coming up in meetings and that she and her entire staff in the City Clerk's Office are extremely helpful and they wouldn't be able to do all this without her hard work and attention to detail.

A vote was taken and it was voted Unanimous.

b. Communication from Elected Officials, Boards and Commissions

Councilor Sherwood mentioned that the School Committee in conjunction with the School Coalition; on January 31st from 12pm to 3pm at the High School they will have an open session looking at goals for the public school system. He stated that he believes they will have childcare there as well so all are welcome.

Councilor McMilleon, on behalf of the City Council and the Community of Amesbury thanked Representative Kelcourse for his service to the City of Amesbury and congratulated him on his new endeavors.

2015-005 City Council Annual Schedule

Councilor Sherwood moved to approve the City Council schedule. Councilor Bartley seconded and it was voted Unanimous.

Mayoral Appointments –

2015-008 Appointment of Paul J. Jancewicz to Board of Trustees of War Memorials.

Mr. Jancewicz stated that he is a veteran and has always had an interest in local history as his ancestors are from this valley. He has an interest in preserving their memories and the memories of all veterans. He has been involved with the Amesbury Veterans Memorial Restoration Committee. Before that was involved with reenacting and memorial services over the years through the VFW and with some pushing I came to be involved with the Amesbury Veterans Memorial Restoration Committee and my friend Ski Iworsky thought that I would be useful on the Trustees. That is how this comes about.

Councilor McClure moved to approve 2015-008 the appointment of Paul Jancewicz to the Board of Trustees of War Memorials. Councilor Ferguson seconded and it was voted Unanimous.

2015-009 Re-Appointment of Paul Hudon as Assistant Harbormaster

Mr. Hudon stated that he has lived in Amesbury for almost 73 years and been doing this voluntarily for 13 years. This is his life, the Town of Amesbury. He stated that he works with Jack and enjoys what he is doing and would like to be re-appointed.

Councilor Bartley moved to approve 2015-009 to appoint Paul Hudon as assistant Harbormaster. Councilor McClure seconded and it was voted Unanimous.

2015-010 Appointment of Denise A. Boyle to the Health Care Trust Commission

Ms. Boyle stated that she has worked for 42 years in the health industry as a medical technologist and is recently retired. She has volunteered at Our Neighbor's Table for 15 years and would like to become part of this Healthcare Commission because she would like to give back to this community.

Councilor McClure moved to approve 2015-010 to appoint Denise Boyle to the Health Care Trust Commission. Councilor Bartley seconded and it was voted Unanimous.

2015-011 Appointment of Todd McGrath to the Board of Trustees of War Memorials

Mr. McGrath was not present.

Councilor Lavoie moved to approve 2015-011 to appoint Todd McGrath to the Board of Trustees of War Memorials. Councilor McClure seconded and it was voted Unanimous.

2015-012 Appointment of J. Andrew Gilmore, Jr. to the Council on Aging.

Mr. Gilmore stated that he has lived in Amesbury for close to 33 years. His wife has been very involved in the city for many years and has finally talked him into becoming part of it and he is very happy and honored to join the Senior Center and he looks forward to serving them.

Councilor Ferguson moved to approve 2015-012 the appointment of Andrew Gilmore to the Council on Aging. Councilor Sickorez seconded and it was voted Unanimous.

Licenses & Permits – FYI – None at this time

Public Comment

James Thivierge, 8 School St. (summary for the record attached)

Melissa Cerasuolo, 16 Market St., spoke representing the Amesbury Chamber of Commerce. She congratulated Jim Kelcourse on his new seat as Representative. She thanked everyone for the great holiday season, lots of retailers stated that people are starting to shop local. The parade was an awesome event. She thanked the residents for all their support and participating in the events they had.

Paul Jancewicz, 19 Whittier Ave, publicly thanked the Council for what appears to be a reasonable compromise regarding the ordinance allowing for keeping of back yard chickens should it so pass. He thanked Councilor Lavoie and Jim Kelcourse for their outstanding efforts. He offered one last opportunity for the council to ask any questions regarding the chickens.

Councilor Ferguson asked that he repeat his amazing comments from the last hearing which were very well spoken and reverberated to a lot of people.

Mr. Jancewicz stated that what he was trying to emphasize was the idea that we in legislating ought to be weary of seeking out problems that are not there. He is a proponent that the freedom of somebody and what they do in their own backyard within the law is something that is very important. He stated that he and his wife, as well as others around him with neighborly okay have been keeping chickens to save a little money on eggs and to rid ourselves of some bad bugs in the backyard, etc. The statements that I made that I felt were important was the idea of this type of freedom. Should you encroach too deeply on someone's backyard; where does that really end? The idea that someone is trying to do this in an age where we should try to go green, is a positive thing. He understands that it could be mis-managed and

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could be a problem. A lot was spoken about that but he feels that the way this ordinance was written after much time and deliberation really solves most of it. He thanked the Council.

Candice Platt, 131 Friend St. spoke regarding chickens as well and is a neighbor of Mr. Jancewicz. She stated that public opinion has stated that they are in favor of this as per the petitions that were signed by residents and submitted last month and the poll that Councilor Sherwood on Amesbury Talks. She asks that this be considered before they take a vote.

Public Comment was closed.

9. Council Response to Public Comment

Councilor Lavoie had some answers to Mr. Thivierge questions. With respect to free cash the CFO reports that the DOR (Dept. of Revenue) is scheduled to come here on January 20, 2015 for their review and he is sure that the Council and the newspapers will get notified when Free Cash is certified. The reference to the tax rate certification, it is definitely certified because as all tax payers know we all got our tax bills on January 2. The audit for the year ending June 30, the field work is done; the auditors are waiting for some backup information and then the audit will be available. The annual report, as per the Mayor's Chief of Staff today, they will have it published by the end of the month. There was some late arriving information that they thought would be useful for the Council and the public to be aware of so they wanted to have that included in the annual report so they held up the publication this month for that.

10. Third Reading:

2014-107 – An ordinance requesting the Municipal Council vote to amend the provisions of the Amesbury Zoning Bylaws to allow for the limited use of maintaining chickens as pets and for egg production in residential areas. – Councilors Kelcourse, McMilleon, Sherwood and Ferguson Sponsor **Summary:** – The purpose of this ordinance is to balance the desire of residents to own backyard chickens while protecting abutting neighbors from noise, odor, damage or threats to health and public safety.

Councilor Lavoie stated that on December 9, he made a motion to accept what he had presented in writing; that the Council adopt that and the was seconded, but under the Charter one or more Councilors can object to the vote actually being taken on the first time it is brought up and that was done. There is a motion before us now which is to adopt what he brought forward on December 9.

What he brought for materials tonight is a clean version of the bill. He presented the Council and the Clerk with a red line version. For the general public the changes are as follows: He gave it a title; An Act to Allow for the Limited use of Maintaining Chickens as Pets and for Egg Production in Residential Areas, defined hereinafter referred to as "this Act". In paragraph 2, it already refers to no roosters or crowing chickens but it wasn't defined so it now says (collectively "Roosters")

Paragraph 4 he changed the word parties to "persons"

Paragraph 6 he added and introductory sentence; A reasonably-sized chicken coop ("Coop") shall always be provided for any Poultry Use.

Paragraph 8 changed life stock to "livestock"

Paragraph 9 changed parking dogs to "barking dogs"

Paragraph 10 (a) now reads: In all Poultry Use regulated under this Act, a Permit under this Act shall be required.

Paragraph 10 (b) Line 2, after the word changed he added (“in the future”)

Paragraph 10 (c) Line 2, after the words his/her he added the word (“written”)

Paragraph 12 is where he defined the word Coop for section 6 and the word excised was changed to (“exercised”).

Paragraph 11 strike the closing parenthesis after the word plans.

Paragraph 13 (c) Line 4 after the word permit add (“for a Coop”)

Paragraph 14 Line 1 after the word staff add (“is hereby authorized”) and after the word necessary add the word (“written”)

He stated that in this section he has left it for the Planning Staff to make the words of the Zoning Ordinance.

Councilor Lavoie moved that they amend the existing motion by replacing in its entirety the text submitted in the original motion made on December 9 with the following text tonight. Councilor Sherwood seconded.

Councilor Ferguson gave a brief history of how this ordinance has made its way to its current status from 2013 to present and the time and effort of many that have spent discussing this issue.

She noted that they have had input from the Building Inspector, the City Planner and many residents and have received over 130 letters from residents asking to allow them to have backyard chickens. She stated as City Councilors they have a responsibility to listen to the situation and find a solution. They have tried to find a solution to anticipated problems and have tried to listen to both sides of the debate and to do nothing would just continue this situation without any resolution and the problems will persist. She stated that she believes that in the United States of America we have many rights that are protected and that it is important that they cannot prevent land owners the right to care for chickens if they follow the rules. She urged her fellow councilors to find a compromise and vote for this tonight.

A vote was taken on the amendment that Councilor Lavoie proposed. IN FAVOR: 7 – OPPOSED: 2 McClure and Bartley.

Councilor Bartley moved that she would like to add an amendment by making it 1 acre and that the Coop be 100 ft. away from the neighbors. Councilor Sickorez seconded.

Councilor Ferguson agrees with 1 acre but is not in favor of 100 ft. she feels that is a large distance and would like to discuss that.

Councilor Bartley stated that she is thinking of those folk who are in close neighborhoods and chickens can be very malodorous especially in the heat. She wants to be fair to everyone.

Councilor Sherwood stated that he feels 100 ft. would functionally eliminate a lot of properties that would benefit this ordinance. There are other ordinances that already address odor and noise and the construction of structures on neighbors’ properties. This is really fitting into an existing framework. He feels the other ordinances that we have in place offer recourse in that regard.

Councilor Lavoie stated that Amesbury uses builder areas and would like if it is going to increase that it increase to 40,000 sq. ft. He explained that with the footage it would be 100 ft. from the nearest dwelling not the lot line.

If you have an acre or more you visit the Building Inspector and if you have less than an acre you have to go through the Zoning Board of Appeals.

Councilor McClure stated that with the existing law that if you have under 2 acres, essentially you could go to the Zoning Board of Appeals.

Councilor Lavoie I guess you could look at that as a dimensional variance but from a Zoning point of view, Amesbury has a use variance. If you are not allowed as a use you cannot go to the ZBA to get permission for a disallowed use, you can only go to the Amesbury Zoning Board for a dimensional variance. He feels there should be structure and relief for the people who have undocumented chickens now; let's get them documented and he is not opposed to 40,000 sq. ft.

Denis Nadeau, Building Inspector stated that it is under agricultural use. Trying to go to the ZBA to get relief from that would be a use variance. The only way a use variance is allowed is that it has to be documented in the zoning bylaw. Our bylaw has no such documentation.

Councilor Lavoie restated Councilor Bartley's amendment that in paragraph 6, the word fifty would change to one hundred. Which means chicken coops have to be 100 ft. away from the nearest dwelling. Then in paragraph 10 (b) and (c), instead of 20,000 it would become 40,000. The effect of that would be if you have a lot less than 1 acre, which Amesbury considers 40,000 square feet, you have to go to the Zoning Board of Appeals.

Roll Call vote 7-Yes, 2 No, Councilor Sherwood, Councilor Ferguson

Councilor Moavenzadeh stated that he feels that right now approving this amendment will leave everything up to the ZBA to make a decision as to whether chickens are allowed on various properties unless they have more than 40,000 sq. ft. He does not see how anyone who is going to declare hardship for smaller parcels could say they are going to be denied to have chickens on their property. He feels this is an open door for everyone to have chickens by getting ZBA approval. He commented that being in the building business he has seen Zoning Boards vote (not necessarily in this town) not in favor of the neighbors quite a few times where all the neighbors are against an addition on a house where it doesn't meet the setback requirements and the town wants the money for the additional taxes they are just going to go ahead and say yes.

Councilor Sickorez stated that in this instance, there is no benefit to the town saying yes or no. There is no additional tax revenue to be seen from chickens so that part is mute. The whole important this here is that the neighbors have recourse if there is a significant objection and this provides that through the ZBA.

Councilor McClure stated that coming here tonight; she has listened to both sides and received petitions from people who this does not impact and has read the existing law, and believes this issue is, in the words of one or two constituents, a neighborhood dispute and she is uncomfortable with the idea that we are writing an ordinance to settle a neighborhood dispute. She feels these issues should be handled on a complaint by complaint basis by the appropriate town authorities and will be voting against a change in the current laws.

Councilor Lavoie reviewed the zoning bylaw, sections 10 sections f and g which speaks to granting special permits for use in neighborhoods. Suggesting people work it out amongst themselves technically is not correct as right now it is unlawful under 2 acres. Amesbury has been living in don't ask don't tell attitude with respect to chickens and it has worked out okay up until 6 months ago. This sets up a structure that it is no longer unlawful but you need permission and the Zoning Board exists for that function. He stated he is in favor of this.

Councilor Sherwood stated that the motivation for this was not a neighborhood dispute. It was talked about before he was on the Council about reviving Councilor Scorzoni's ordinance completely unrelated to the issue in the district that he represents. He believes that a lot of the people that we have heard from do have chickens. This creates a lawful format for those neighbors to be able to work it out. This creates a framework for issues to be worked out in a public forum rather than between neighbors outside of that. He stated that he has confidence in this.

Councilor Sickorez stated that when he came in here tonight he was prepared not to be in favor of this because of the setbacks and the size but after the amendments he is comfortable.

Councilor Sherwood moved to accept 2014-107 as amended this evening by Councilor Lavoie and the supplemental amendment by Councilor Bartley. Councilor Ferguson seconded. Roll Call Vote 8-Yes, 1-No, Councilor McClure

First Reading – Late File

Councilor McClure moved to accept the late file. Councilor Ferguson seconded and it was voted unanimous.

2015-013 Resolution to support the development of a Regional joint application to the Community Development Block Grant (CDBG) program and to adopt the Community Development Strategy

William Scott, Director of Community and Economic Development presented. He stated that this was to accomplish two items. 1. To support a regional joint application between the City of Amesbury and the Town of Salisbury for CDBG program funds or Community Development Block Grant Funds and 2. To adopt a community development strategy as attached to the packet that was supplied to the Council.. He commented that regional would give a better competitive grant application and that Salisbury has been very effective in the CDBG program over the last several years and have acquired over \$5 million in funding. We have been around \$660,000. They have an established and well managed office for the program. The indices score is a score that all communities start with. It is your foundation and based on your existing demographics and were changed in the fall where many communities shifted up and down in terms of ability to compete. We were shifted up to a 25 and Salisbury is a 24. Above 25 you have access to CDF 1 which gives access to over \$15 million in available funding statewide and CDF 2 is only 2.7million available funding statewide. We as a city of Amesbury apply in CDF1 and then we work with Salisbury who will go in with our application. The minimum you would apply for is \$100,000 and the maximum is \$1 million. The application deadline is February 13, 2015. The Community Development Strategy asks for the city or municipality to outline the problematic issues and the type of programs you would want within the context of CDBG programs. There is an RFP out for Social Services through the guidance of Salisbury and people can access that at cdbg@salisburyma.gov. They

have to go through Salisbury so they can keep track of who is interested. The application for housing and rehab is available there as well.

Councilor McMilleon questioned if there were two parts of this that needed to be voted.

Mr. Scott stated that with the Resolution you are saying you are supporting both the function of the regional application and you are supporting the Community Development Strategy. According to CDBG requirements it does not require a hearing and we have a deadline of February 13 to get the application in. It is as worded in the Resolution

Councilor Sherwood asked if an award was won, how it would be received.

Mr. Scott stated that we would receive the majority of funds. The management funds would go to Salisbury.

Councilor Sherwood commented that other CDBG grants that have been received have been for very specific uses and very specific neighborhoods based on specific demographic related to that. He questioned if these expenditures would have the same restrictions.

Mr. Scott stated that housing and rehabilitation are usually limited to target areas and are preferred by HUD. The target area is predominantly established to target infrastructure improvements. He stated they are not looking at an infrastructure application given the timeline and there are other funding sources for that. If you look at the data in the beginning of the plan, houses older than 1939 comprise a great percentage of the community and most are in the core area so housing and rehabilitation works better where that housing is.

Lisa Pearson, the Salisbury Planning Director was present for questions and there were none at this time.

Councilor Lavoie moved to approve the Resolution as presented. Councilor Ferguson seconded.

Councilor Lavoie commented that Mr. Scott and the Mayor's Office and Councilor Kelcourse did a great job in a short amount of time. Regionalism is really the way to go to collaborate with our regional neighbors and to share resources both administrative and grants when we can get them.

Councilor Ferguson stated that she feels strongly that this is a great way to go forward to get state funds. What they are working on is housing rehab services which is much needed in both communities. She applauded Mr. Scott and Ms. Pearson for their efforts and she supports this and hopes we can continue to be creative and regional in our efforts.

Councilor Bezanson stated that he spoke with Representative Kelcourse and feels this is a great opportunity for Amesbury to capture some funds that there is no tie back to. He has already started his role and just wanted to thank him.

Voted Unanimous

Councilor McMilleon stated that he would be leaving committees the same unless anyone wants to make a change and they could let him know. He stated that Councilor Bezanson would take the place of Councilor Kelcourse on the committees that he was assigned to.

Councilor Lavoie stated that the Public Buildings and Infrastructure Committee will be meeting on February 3, 2015 at DPW building at 6:00 p.m.

Councilor Ferguson asked that a new list of Committees be sent out to everyone.

Councilor Bartley thanked the members of the Clerk's Office for the work they do.

Councilor Ferguson moved to adjourn at 8:50 p.m. Councilor Sherwood seconded and it was voted Unanimous.

Respectfully submitted,

Sharon Dunning
Assistant City Clerk