

Municipal Council Minutes  
February 8, 2005, 7:00PM  
Town Hall Auditorium

Pledge of Allegiance

Roll Call: Christopher Lawrence, Mario Pinierio, Roger Benson, James Chandler, Ann Connolly King, Esther Headley, Anne Larnard and Joseph McMilleon  
Robert Woodsom not present

Accept minutes: January 11, 2005 & January 19, 2005 – Councilor Benson motioned, Councilor Chandler second

Accept the Municipal Council Rules and Procedures 2005 – Councilor Benson moved to accept, Councilor Lawrence seconded

### **PUBLIC COMMENT**

Rosemary Werner, 11 Martin Road, Director of Our Neighbors Table – We have a program called USDA, United States Department of Agriculture. Last year we gave out over 3500 bags of groceries. The bags contain macaroni and cheese, cereal, pudding, beef stew, tuna fish, fruit cocktail, vegetables, rice, salmon, cheese, meat and bread. This program is available to Amesbury, Newburyport, Rowley, Merrimac, Newbury and Groveland residents who qualify. It is a very simple procedure and we have tried to make it user friendly. You get a blue card and just show it every time you come to the pantry. You pick up your food the second and fourth Wednesday of every month. If you are handicapped, Pamela Brown the Senior Center Director has given us the use of her van to deliver the food. The forms are available at the Senior Center Monday thru Friday and at Our Neighbors Table on Wednesday. Anyone that is eligible I encourage them to look into this program because the food that is available is about \$700 a year.

Dana Hathaway, 9 Swetts Hill – Mr. Hathaway is here tonight to represent the neighborhood around Bailey's Pond and Swetts Hill, Summit Ave, Beacon Street and the Hat Shop. They oppose the high intensity duplex plan proposed around Bailey's Pond.

Michelle Thone, Hunt Road – Ms. Thone makes an announcement that there will be a meeting at Town Hall on Thursday, February 16 at 6:30 with Chief Assessor, Mary Marino on several tax topics, the public is welcome.

Jim Thivierge, Sanborn Ter. – 2004-83 – He feels this is a bad idea because our local revenue is low and does not feel we should take \$70,000 to promote tourism. Mr. Thivierge wants to make sure that the Councilors are reading the grants that are on the agenda to know the stipulations, and the long and short term consequences. On 2004-126 he does not feel it is in the best interest of the community for elected officials to relinquish their responsibilities to the public.

### **LICENSES AND PERMITS**

**2005-14 Dine, Dance & Entertainment – Millyard Grille LLC d/b/a Powow River Grille**  
President McMilleon – reads 2005-14 into the record.

Councilor Pinierio – What will your operating hours be?

Mark Friery – The hours will be just dinner initially but, we will be catering events at various times. I wrote on the application that we would like the maximum hours of our liquor license so that I would

not need to keep coming back for permits as we grow and expand. We don't anticipate being a late night place. We do anticipate doing events that will require that.

Councilor Pinierio – Have you obtained a liquor license yet?

Mark Friery – We own the liquor license that was held, that we acquired during the auction and we are in the process of having that license transferred.

Councilor Lawrence – I move for approval of 2005-14 as submitted.

Councilor Benson – second

Voted – Unanimous

**2005-15 Common Victuallers – Millyard Grille LLC d/b/a Powow River Grille**

President McMilleon – reads 2005-15 into the record.

Councilor Benson – I move for approval 2005-15 as submitted.

Councilor Larnard – second

Voted – Unanimous

**MAYOR APPOINTMENTS**

**2005-16 Scott M. Brown – Design Review Committee – unexpired term to expire 6/30/06**

President McMilleon – reads 2005-16 into the record.

Scott M. Brown – Mr. Brown is very pleased to serve a community that he has grown to love in a relatively brief amount of time. He is a practicing architect and has worked on a variety of different project types, many involving older properties.

Councilor Pinierio – Thank you for coming forward to serve.

Councilor Pinierio – I move we approve 2005-16

Councilor Benson – second

Voted – Unanimous

**2005-17 Ganson Purcell, Jr. – Health Care Trust Comm – term to expire 6/30/07**

President McMilleon – reads 2005-17 into the record.

Councilor Chandler – I am going to make a motion to accept 2005-17 because I know Ganson, he lives in my neighborhood. He is a doctor who is recently retired and very knowledgeable. I just think he would be wonderful for that position. My motion is that we accept.

Councilor Larnard – Second

Voted – Unanimous

**2005-18 Mary Lee Ford – Council on Aging – unexpired term to expire 6/30/07**

President McMilleon – reads 2005-18 into the record.

Mary Lee Ford – Mrs. Ford is a practicing pharmacist and has been practicing in town for 20 years owing her own business, Boyle Drug for 5 of those years. During the time that she has been practicing in town she has met numerous senior citizens and knows a lot of the needs and problems that health care costs and issues that they run into.

Councilor Chandler – I move that we approve 2005-18 as submitted.

Councilor Headley – second

Voted – Unanimous

**SECOND READINGS**

**2004-42 To amend Council Rules 11A, Finance Committee Public Hearings – President McMilleon sponsor cont.**

President McMilleon – reads 2004-42 into the record. As a sponsor of this I would like to see this go through. The purpose is when ever we have finance issues that come before the council for the first time, as we do with all items for the first time on the agenda, we refer them to committee. We refer all finance requests to the finance committee. In the finance committee meeting we hold a hearing on that issue. What this would do is change the hearing from the Finance Committee to the Council. The reason that is advantageous for the public to have an opportunity to have additional input on a financial request – at our Finance Committee hearings you know we have a full discussion and we have department heads in and we discuss the request, the public has an opportunity to ask questions it's a pretty informal discussion of what ever the financial request is. A lot of times at those meetings we will ask for additional information and we will have to wait. We may make a recommendation but a lot of times we hold off because we want additional information at our next council meeting. By having the public hearing at our next council meeting it gives the public another opportunity in addition to the public comment period to ask any added questions. That is the purpose of it. I think it give more of an opportunity to the public to have some input. I know we have two other proposals that we are looking at in terms of changes in the Finance Committee. This would not change any of that and this isn't anything that is harmful. It may take a couple of months before we institute, if we do end up instituting any kind of change in the Finance Committee. My suggestion is that we go ahead and pass this because I think it is a good thing just on its merits for right now.

Councilor Benson – I think this is a good idea it sort of clears up part of peoples feelings that that set up is a little odd that we are not holding a public hearing on financial matters as a council. My only concern is that we sort of strictly adhere to the 10:30 rule and not make it just a new business rule lets say we just end at 10:30. If there is pending business we will just have to schedule another meeting. That is one of the reasons that we did that was because we were running until 12 and 1 in the morning and that was not good to be making decisions at that late hour. I don't have a problem doing this at all, I would just like to see us sort of agree that if we do run that late to stop and not be afraid to stop. It makes for bad decision making.

Councilor King – First, just to clarify the public participation. When we do have a Finance Committee meeting what would be the mode of public participation at that meeting.

President McMilleon – The way it is now, I think it is pretty open now in our Finance Committee meeting. We allow a fairly open discussion at those meetings. It is not only department heads; it is a sub committee meeting not a formal Council meeting. We can and have taken comments and questions from the public.

Councilor King – Did this go through Rules and Regs?

President McMilleon – Yes it did go. It has been in Rules and Regs over a year.

Councilor King – I don't remember it being discussed in Rules and Regs.

President McMilleon – It was brought up, we don't have a recommendation.

Councilor King – I don't remember this being in Rules and Regs. I don't think it was ever discussed. One more thing, I agree with not going until late in the evening but do we have to amend the Rules and Regulations so it doesn't say new business only or can we...

Councilor Benson – I'm just saying lets just agree on it. We don't have to be steady and exactly at 10:30 stop. I think that if that does happen we should just schedule a meeting in a couple of days.

President McMilleon – I think it is two different issues. We have this proposal here and I think Councilor Benson is referring to our rule that if we go beyond 10:30 we have to take no new business but we can continue beyond 10:30. If we wanted to change that that would have to be another proposal. I guess I would ask that we focus on this and judge it on its merits. I think there is a consensus from discussions that we have had previously that we do want to try to adhere to that 10:30 rule.

Councilor Chandler – If we say we don't want public comment but will allow questions – my concern is how can the Finance Committee make an informed recommendation to the Council if they have not heard the public input. I would rather have the public comment at the Finance Committee before we make a recommendation.

President McMilleon – That happens now.

Councilor Chandler – We are saying on this bill that we don't want public comment.

President McMilleon – No not at all; all we are saying is that currently the system calls for the public hearing to be held during the Finance Committee meeting and all I am saying is take the public hearing and move it to the next meeting of the Council and have your public hearing like you do on some of the ordinances here tonight. We have public hearings on our ordinances, that is when we would have public hearing on our finance issues, we would have it before the Council. It allows another...if we have a public hearing at our Finance Meeting and we have department heads and the public raise issues and raise questions and we say we want to wait until our next meeting, we don't want to make a recommendation on this request then when we come back as a

Council we are not having a public hearing on it. The public doesn't have an opportunity to have any kind of input. This provides an opportunity for them to have input. They can have input both at the Finance Committee meeting and at the Council.

Councilor Chandler – I guess I am confused about what public hearing means because you can say there won't be a public hearing but people can still get up speak.

President McMilleon – Absolutely, it is a sub committee meeting. It is just like the sub committee meeting of the ordinance. If we have people show up that want to make comments, they make comments.

Councilor Benson – It is important to keep in mind that it is much more informal in the Finance Committee in terms of the rules on when people are allowed to speak on matters. It is almost really like you are having two if you think of it that way. We can even have two just call it something different so the Clerk doesn't have to send all these notices to the newspaper that costs a fortune.

Councilor Lawrence – I agree with both President McMilleon and Councilor Chandler. There has always been the question about information that the Finance Committee is looking for and if it is not significant we as the Finance Committee will say get it to us for the Council meeting for a recommendation. If it is significant enough I think that that item in Finance will stay in Finance to be continued.

President McMilleon – Under the current system we have a Finance Committee meeting and we hear from the public and we have a public hearing with department heads and make a recommendation to pass a financial request. When we come back as the Council and someone has raised a question or found out some additional information it makes it hard at the next council meeting because there is not a hearing – so unless we suspend the rules and let somebody speak it really interrupts or meetings. By putting this in place you now have the public hearing at the next council meeting. If something else comes up we have a public hearing and it gives an opportunity for anyone out there to make a presentation to us.

Councilor King – I do have a problem with the process. There are three proposals out there right now to amend or one way or another how the Finance Committee operates. I feel taking this with out it going to rules and regulations and coming back with a recommendation – should we just not send the other two to rules and regulations for recommendation? I feel all three requests should be treated equally. It went to rules and regulations but it was not discussed. I feel we really should stick to the process.

Councilor Lawrence – I'm on the Rules and Regs, this has been on our agenda for the past year. Council has been remiss for acting on it previously.

President McMilleon – I will entertain a motion.

Councilor Benson – I move to approve 2004-42. This was the first issue with the Finance Committee that popped up and I think it is a valid one. This is a good change to it and in the interim when we talk about what the Finance Committee will look like going forward, this will take care of some of those issues.

Councilor Lawrence – second

Councilor King – I still have concern that all proposals are not being treated equally. Nobody recommended that it goes to rules and regulations. Somebody needed to recommend that it goes to rules and regulations and have a meeting. There was never a Rules and Regulations commission to address the proposal. It came before Rules and Regs with Councilor Woodsom and Lawrence's recommendation. It was not discussed and there was no recommendation given and as it stands right now the other two proposals are going to Rules and Regulations and it only seems .....for consistency purposes everything should go to Rules and Regulations and be treated in the same manner.

Councilor Larnard – I thought we did refer it to Rules and Regs, it has been sitting around for about a year. I went to one Rules and Regs meeting when they were discussing Councilor Woodsom and Lawrence's and this was brought up.

Councilor King – We need to have clear boundaries in what our committees are doing. If one is treated one way do we send the other two bills down and not send back recommendations back for them? I don't recall having a discussion about this, we did not sit down and say lets take this measure and come up with a recommendation.

Councilor Benson – When this was first submitted there was a question about the method by which it was submitted and then it was done as a bill, and that bill was referred to Rules and Procedure. If it takes any committee 8 months to make a decision on a bill the Council has the authority to approve it anyway. If a committee doesn't take up a bill I see no reason why the council shouldn't discuss like we have tonight and vote on it.

Councilor Pinierio – You are saying we are going to have a public comment in the Finance and the Council.

President McMilleon – We have that now.

Councilor Benson motioned to approve 2004-42, seconded by Councilor Lawrence

Voted – 6 Yes, 1 Abstain (Chandler), 1 No (King)

**2004-83 An Act authorizing the Town of Amesbury to establish a Tourism Promotion Fund – Councilor Lawrence sponsor cont.**

President McMilleon – reads 2004-83 into the record.

Councilor Lawrence – I am recommending that we continue this to our March 8th Council Meeting. I had wished to supply the Council with some information tonight. I am making some modification to the wording; you will have that by Monday.

Councilor Benson – second

Voted – Unanimous

**2004-127 An Order to request the Municipal Council surplus two vehicles from the Amesbury School Dept. – Mayor Hildt sponsor cont.**

President McMilleon – reads 2004-127 into the record.

Councilor Benson – The Finance Committee recommended approval. Except we need a corrected VIN number for the 1994 chevy – 1GBHG31K5RF1226840. I move the recommendation of the Finance Committee to approve.

Councilor Pinierio – second

Roll Call Vote - Unanimous

**2004-130 A Request to accept a grant from the United States Environmental Protection Agency - \$4936.00 – Mayor Hildt sponsor cont.**

President McMilleon – reads 2004-130 into the record.

Councilor Benson – The Finance Committee recommends approval of 2004-130.

Councilor Pinierio – second

Roll Call Vote – Unanimous

**2005-1 An Order that the Municipal Council vote to accept a donation of \$1,000 from Sam's Club as part of their Safe Neighborhood Heroes Program – Mayor Hildt sponsor cont.**

President McMilleon – reads 2005-1 into the record.

Councilor Benson – The Finance Committee recommended approval of 2005-1 and I move the recommendation of the Finance Committee.

Councilor Larnard – second

Roll Call Vote – Unanimous

**2005-2 An Order to request the Municipal Council to accept the first payment of \$1,333.34 from Essex National Heritage Commission – Mayor Hildt sponsor cont.**

President McMilleon – reads 2005-2 into the record.

Councilor Benson – The Finance Committee recommended approval pending the Mayor's amendment which we did receive tonight. "An Order to request the Municipal Council to accept a grant in the amount of \$4,000 from Essex National Heritage Commission." I move the recommendation of the Finance Committee.

Councilor Pinierio – second

Roll Call Vote – Unanimous

**2005-3 To accept a \$2,000 donation from the RAMSLEG Foundation for the Town of Amesbury's Theater Arts and After School Program – Mayor Hildt sponsor cont.**

President McMilleon – reads 2005-3 into the record.

Councilor Benson – The Finance Committee recommends adoption, I will move the recommendation of the Finance Committee.

Councilor Pinierio – second

Roll Call Vote – Unanimous

**2005-4 To accept a grant in the amount of \$1,200 from the Mass Emergency Mgt. Agency – Mayor Hildt sponsor cont.**

President McMilleon – reads 2005-4 into the record.

Councilor Benson – The Finance Committee recommend adoption of 2005-4 I will move the recommendation of the Finance Committee.

Councilor Pinierio – second

Roll Call Vote – Unanimous

**2005-9 A Resolution to rescind the Bailey’s Pond Project Measure No. 2002-157 – Councilor Chandler sponsor cont.**

President McMilleon – reads 2005-9 into the record. We referred this to Ordinance and to Town Counsel.

Councilor Lawrence – There was a motion made at the Ordinance Committee that this committee not make a recommendation to the Council and allow the Public Hearing to proceed before the Council.

President McMilleon – I will declare the public hearing open.

Councilor Chandler – I would like to read a brief statement for the benefit of the assembled councilors, those present and the TV audience regarding the 2 Bills that I have submitted. First I want all to understand that my intent is not to obstruct good development within Amesbury. The town can be proud of many recent, wonderful, development projects – from the downtown sidewalks, lighting, benches and flower displays to the Hatter’s Point mill renovations by Bill Sullivan, to the Upper Mill Yard mill renovations by Ed Fish, to the rebuilding of the block next to St. James church by Wojcicki and McPartland. I am also very encouraged to see work progressing at the Cedar Street mill. I am 100% supportive of the Mayor’s efforts to relocate the DPW garage to the old Microfab site on Route 110. The Alliance for Amesbury and the Carriage Museum has taken a bold step to kick off development in the Lower Mill Yard. We should all be most supportive of this project and the activity to follow. These are all examples of smart development – development that conforms to the intent of our Smart Growth by-law by getting blighted buildings back on the tax roles without eating away at our open space. Open space may be the one asset that best differentiates Amesbury from our more populous neighboring cities. I don’t see us wanting to become another Saugus, or Salem, or Peabody. I don’t think that many residents do. Surely there are some who profit from any development, so, the more the better. I chose to believe that the large majority of residents want Smart – very Smart – Growth. At this point, all listening

should be aware that our Smart Growth by-law was scheduled to expire upon the town's acceptance of our Master Plan. It was only through the attention of the Planning Board and this council that Smart Growth was incorporated into the new Master Plan. The Administration took no steps to prevent it from dying, and I am afraid they are already attempting to get exceptions granted. Without the Smart Growth by-law major developments like the proposed for Bailey's Pond could literally change the nature of this town overnight. Because Town Counsel and other legal opinions I have solicited believe that we have signed a legal contract and are responsible for its content I ask to withdraw Bill #2005-9 from consideration tonight. This Bill would have rescinded the November 2002 vote of that municipal council which accepted the Mayor's recommendation to award the development of Route 150 and Route 495 to Faford. However, with support from the Ordinance Committee I am asking the City Council to approve Bill 2005-10 as amended. This bill asks the Inspector General of the State of Massachusetts to review our Terrasphere RFP and the signed P&S agreement with the hope that he can review the concept of Terrasphere and give advice to this and future town governments that will help us avoid pitfalls when we again wish to dispose of town owned property and better protect the town's interest in its development. This is a service which is free of charge and will cost the town nothing. I also hope that the Inspector General might consider the developers responsibility for making a good faith effort to satisfactorily complete the RFP within a reasonable time frame and inform us of what recourse the town may have should this not happen. My purpose is not to derail the Terrasphere project which I once fully supported. As I see it, the project is already derailed. To make a metaphor from recent news, the derailed cars are leaking noxious gasses that are now affecting the surrounding residents. Remember, we were originally shown a wonderful conceptual plan for an industrial park off Hunt Road with an 18 hole golf course designed to attract light industry which would help relieve the residential tax burden which has been growing exponentially for years. Bailey's Pond was just the carrot to make this happen. This concept won wide approval. If the Mayor wants to tell us that Terrasphere is still on track we must see the facts. Residents of Amesbury must demand a full accounting which includes a fixed timetable for every aspect of this project including the projected tax revenues. We are way behind schedule now. Without the projected commercial/industrial tax revenue this whole project becomes a charade. Negotiations for purchasing key parcels of the development have broken off. Yet we are told that we can't break our P&S agreement for Bailey's Pond. It appears that we will divest valuable town owned land with its high potential development value for \$1.00 to a development corporation that ignores and hopes to override our PUD and zoning by-laws. After two years they have shown no intent of presenting a conforming development plan for Bailey's Pond to the Planning Board. They have missed all target dates. I ask "What is the town's recourse?" Our RFP required a bid on the whole Terrasphere package. There are other developers who may be interested in buying and developing consistent with Smart Growth. This would bring needed income to the town without the infrastructure burden we now face. I see little hope that Faford will complete the RFP project within any reasonable time frame. Nor am I aware of any meaningful penalties that would accrue should Faford not perform. How did we ever sign a contract like that? I am afraid for Amesbury. We have to hope for the best and hope that future contracts take hope out of the equation.

Laurie Erwin, 6 Swetts Hill – Ms. Erwin supports Councilor Chandler's 2005-10. She has met many times with Fafard on various issues and they were never addressed by Fafard. She read in the newspaper that they have gone to the Con Com with another proposal with no input from the neighbors. She feels that Fafard is not presenting the conceptual vision of Terrasphere.

Barbara Hathaway, 9 Swetts Hill – She is not upset the way that the contract was awarded but the contract it self. The money in escrow was to be saved for future projects not the sale of the Hunt Road strip club plot. The contract seems to be all pro buyer and not pro seller. There is also no time frame.

Marc Deschenes – Mr. Deschenes supports the 2005-10.

Christopher York – Mr. York attended the 2/3/05 Ordinance meeting and does not feel there is anyone looking out for the Town's best interest on this project. He hopes the Council, as the towns elected officials, looks out for the town's best interest in such a big project.

President McMilleon – closes the public hearing.

Councilor Chandler – I would like to make a motion to withdraw 2005-9.

Councilor Benson – second

Voted – Unanimous

**2005-10 A Resolution to review the Bailey's Pond Project – Councilor Chandler sponsor cont.**

President McMilleon – reads 2005-10 into the record.

Councilor King – The Ordinance committee did not accept the resolution as worded. Brian Flanagan said that if Jim re-worded the statement for the IG to give feed back to the town, that would be acceptable." Mr. Flanagan moved to recommend to the Council that they allow Councilor Chandler to add to the wording of this bill so that the IG has the ability to give feedback to the town on the way this process in particular was completed and that feedback should include things and highlight things that may have or should have been added to the purchase and sale so that future such projects would have something to refer to." They requested to not include the sentence on whether the town can start the RFP process over again.

Councilor Chandler - It should read: "That the Amesbury Municipal Council requests the Mass IG review the RFP process which lead to the selection of Farfard as the developer of the property similar to the IG 2002 report for property sale by the City of Revere. The Council requests the IG to advise us regarding mistakes we might have made so we can, in future contracts, better protect the interest of the Town of Amesbury. We also request any advice to help us ensure that Farfard Development will satisfactorily complete the RFP that he was awarded. I am making that my motion.

Councilor Benson – second

Councilor King – I want to make sure I am clear on Jim's last statement. It is my understanding that the Ordinance was just recommending them for feedback of the contract and not specifically putting in anything about Mr. Farfard.

Councilor Chandler – It was my understanding that we want to know what we did wrong and this is dealing with Fafard and what we can learn by our mistake. We took out “whether the town can start the RFP process over again”.

Councilor King – I would like a typed copy before I vote.

Recess

President McMilleon – You should all have copies of this in front of you. “The Council requests the Inspector General to advise us regarding mistakes we might have made so we can in future contracts better protect the interest of the Town of Amesbury. We also request any advice to help us ensure that, in fact, Fafard Development will satisfactorily complete the RFP that he was awarded.” That is the motion that Councilor Chandler has made and it has been seconded.

Councilor King – I have some discomfort in the sentence “we also request any advise to help us ensure that, in fact, Fafard Development will satisfactorily complete the RFP that he was awarded”. In my mind the recommendation was just for a general review and no comment on the Fafard Project at all. Just to submit the RFP and ask them to critique it and send back recommendations for the future. I think it is a great idea to send it to the IG but will not support it if it has that sentence in there.

Councilor Lawrence – I don’t have not problem sending this to the IG as a whole and Fafard is part of that.

Councilor Benson – I don’t have a problem with any of this, it is just asking for advice. I don’t see why we shouldn’t ask for advice to make sure that Fafard fulfills their contract.

Councilor Chandler – What I eliminated was what the Ordinance wanted me to eliminate and that was, I asked what the Town’s legal obligations to Fafard were and, whether we could start the RFP process over again.

Councilor Larnard – On the original bill 2005-10 the way it is written the “Resolution to review Bailey’s Pond Project”, so you are not asking them to look at the total Terrasphere project, you are asking them to only look at the Bailey’s Pond project?

Councilor Chandler – No, the whole Terrasphere project. So let’s add the Terrasphere project.

President McMilleon – The problem I see here with too much changing of the wording is almost like we have a new resolution. I have concerns about that. I think it is fine we have a resolution before us. It is worded the way it is in terms of reviewing the Bailey Pond project. We have had a recommendation from Ordinance Committee to allow you to change some wording to what you want to see go to the IG and we have done that. If we start going any further with the language and renaming the Resolution we really have a different resolution before us.

Councilor Lawrence – I think they are going to be taking a look at the entire document because it is one of the same.

President McMilleon – You can’t look at Bailey’s Pond with out looking at Terrasphere.

Councilor Benson – I agree with Councilor Larnard, it would better suit our needs if it said Terrasphere.

President McMilleon – Right now we have a motion before us with the word changes and we have a second on that. Any more comments?

Councilor Larnard – I am still not clear. On your original you are crossing out the language on the bottom and then you're adding this? So the first couple sentences will still read the same.

Councilor Benson – Could you read your motion?

Councilor Chandler – Let's change the Resolution to review the Terrasphere and Bailey's Pond Project. Be resolved by the Municipal Council assembled and by the authority of the same as follows: That the Amesbury now requests the Mass Inspector General to review the RFP process which lead to the selection of Fafard as the developer of the property similar to the Inspector Generals 2002 report review of the property sale by the City of Revere. The Council requests the Inspector General to advise us regarding mistakes we might have made so in the future contracts it better protects the interest of the Town of Amesbury. We also request any advice to ensure that in fact Fafard will satisfactorily complete the RFP that he was awarded."

President McMilleon – If you look at the first sentence, regardless of what we are calling the Resolution, it says a Resolution to review Bailey's Pond project. In the first sentence under section one "that the Amesbury Municipal Council now requests the Mass IG to review the RFP process which lead to the selection of Fafard as a developer of the property", that is going to require that he look at the whole document, you can't do anything else. So, I really don't think we need to change the name, I really don't.

Councilor Chandler – That is fine.

Councilor Larnard – I would rather change the name. I think it is clear, it is a resolution we could put forth in one night. It should be as clear as possible.

Councilor King – Jim, I would ask if you would be willing to take this back and rewrite it and bring it back to us. You can bring it back the next meeting. The Fafard project isn't going to be resolved in a week or two weeks. I feel if we are going to submit something to the IG's office, I would like it to be professional and well put together.

President McMilleon – Councilor, I need to know what you want to do. Do you want your motion to stand as it is or do you want to also now add another change?

Councilor Chandler – I am concerned about adding all these changes. Whether the Terrasphere is in the resolution, I don't care what ever the council prefers.

President McMilleon – Well, we have a motion on the floor that has been seconded. The only way we can do this is either withdraw the motion or you change the motion. We have to deal with your motion.

Councilor Chandler – Let's leave the motion the way it was to review the Bailey Pond project because down below we do mention everything.

President McMilleon – We have a motion before us, is there any further comments?

*Councilor Chandler - It should read: "That the Amesbury Municipal Council requests the Mass IG review the RFP process which lead to the selection of Farfard as the developer of the property similar to the IG 2002 report for property sale by the City of Revere. The Council requests the IG to advise us regarding mistakes we might have made so we can in future contracts better protect the interest of the Town of Amesbury. We also request any advice to help us ensure that Farfard Development will satisfactorily complete the RFP that he was awarded. I am making that my motion.*

*Councilor Benson – second*

Roll Call Vote – 7 Yes, 1 No (King)

## **PUBLIC HEARINGS**

### **2004-95 An Ordinance to Amend the Amesbury Zoning Bylaw Sec. X – Mayor Hildt sponsor cont.**

President McMilleon – reads 2004-95 into the record. Nipun, I think one of the points the Councilors are making over the last couple of meetings is that we would like in layman terms if they are referring to an ordinance change or a certain section to have a explanation of what that section deals with and what the proposal is for changing. That is what we are asking for and going forward we would like to have that.

Nipun Jain – Section X deals with a lot of things in the by-law. Next time we will mention the title of the section. If you go to section X, it deals with administration and enforcement section X and it has various sub headings, it deals with how special permits are granted, who is the special permit granting authority. The bill that is before you intends to add another sub section in section X which is going to be named section X.N. That is to allow the Town of Amesbury to have planning board associated members on the planning board. That is the intent of the bill that is before you. The language for that bill was included in the package at some point. I hope that you have that before you. That is how section X.N will be. I brought an explanation of why the Planning Board needs to have associate members. Also how having associated members will strengthen the ways of the community and the ability of the planning board to make decisions in a timely manner.

President McMilleon – Would this be another appointed member, appointed by the Mayor and approved by the Council.

Nipun Jain – That is correct.

Councilor Pinierio – Does the associate member have any voting rights?

Nipun Jain – The associate members would be sitting on special permits only under 4 conditions. One, if there's an absents on the planning board or if there is a conflict of interest or if ..

President McMilleon – Absents of a member, inability to act, conflict of interest and a vacancy.

Nipun Jain – If those four conditions exist and the associate member sit on the public hearings then they would have the ability to vote. Otherwise they wouldn't even be voting.

President McMilleon – Are there other towns that have this kind of set up.

Nipun Jain – That is true. It is part of the MGL Ch. 40A sec 9. That allows the towns to establish the position of the associate members.

Councilor Lawrence – If there is not a quorum available for a meeting, can that meeting be delayed 48 hours until you get one?

Nipun Jain – It is not written that it can be delayed for 48 hours. We have two meetings in a month for the planning board and sometimes even three times. They don't want to delay the meeting for 48 hours they would rather meet in two weeks time. When you are dealing with projects there is so much information that we need to look at, to have a third meeting along with the two meetings is a lot of work for the planning board members. That is one of the reasons why we were looking for associate members. If there is an absents on the board at least we will have other members to attend the meetings, have the quorum and move forward with the public hearing.

Councilor Chandler – I understand that a lot of these hearings go on week after week and the same people have to hear the same issue. If you have two people on the planning board missing one night and it comes up the next night and two other people are there but the original two aren't there; the two that come on aren't eligible to vote, correct?

Nipun Jain – That is correct.

Councilor Pinierio – Who recommends the associates?

Nipun Jain – The planning board would look at the applications and then forward those to the Mayor and the Mayor would come to the Council.

President McMilleon – I will close the public hearing.

Councilor Chandler – I recommend that we approve 2004-95

Councilor Benson – second

Roll Call Vote – Unanimous

**2004-96 An Ordinance to Amend the Amesbury Zoning Bylaw Sec. XI.P – Mayor Hildt sponsor cont.**

President McMilleon – reads 2004-96 into the record and declares the public hearing open. I have one question. It says to take out part of the text that is in there that provides a rationale for establishing the Brownhill neighborhood. Why do we need to take that out?

Nipun Jain – We read a bylaw they are supposed to be policies and guidelines in general. When the Brownhill neighborhood conservation district was formed it followed a set of procedures that

outline how we create neighborhood conservations districts. In forming a neighborhood conservation district it could be unique for each district. It confuses people when they read about the rational for the Brown hill neighborhood district versus what they should be looking at they frame work for creating a conservation district. Plus, people tend to read into that and understand that that is part of the bylaw where as it is not.

President McMilleon – So, basically it shouldn't have been that specific. It should have been generic.

Nipun Jain – It should not have been part of the zoning by-law.

President McMilleon – I will declare the public hearing closed and entertain a motion.

Councilor Chandler – I move that we approve 2004-96.

Councilor Pinierio – second

Roll Call Vote – Unanimous

**2004-97 An Ordinance to Amend Zoning Bylaw Sec. XIV – Mayor Hildt sponsor cont.**

President McMilleon – reads 2004-97 into the record and declares the public record open.

Councilor Headley – Is this similar as the previous?

Nipun Jain – Section 14 deals with water resource protection district. If you read through the bylaw there is a mistake where the "l" was missed and it doesn't make sense in the bylaw. We are trying to correct a typographical error.

President McMilleon – So it is not a change in the substance.

Nipun Jain – Absolutely

Carl Calderwood – Mr. Calderwood would advise caution because of the numerous zoning changes. Wants to make sure these zoning changes have nothing to do with Bailey' Pond.

President McMilleon – We take the changes very seriously and they do go through a process. These are minor changes, cleaning up language. I will declare the public hearing closed.

Councilor Chandler – I move we accept 2004-97.

Councilor Pinierio – second

Roll Call Vote – Unanimous

**2004-126 Amend Article 7 of the Amesbury Town Bylaws – Councilor Lawrence and Woodsom sponsor.**

President McMilleon – reads 2004-126 into the record.

Councilor Lawrence – This is still being worked on. The last time we met on it we requested additional information which has been completed. This has been continued to another workshop, we need to set a date.

President McMilleon – We will tentatively set March 1<sup>st</sup> for a workshop and confirm it at our Feb 23<sup>rd</sup> Finance Committee meeting.

Councilor Benson – second

Voted – Unanimous

**2004-132 Street Acceptance – Olde Tavern Lane – Mayor Hildt sponsor**

President McMilleon – reads 2004-132 into the record and opens the public hearing.

Councilor Headley – This is in my district and I have heard nothing from anybody until tonight. I would like to get out there. I don't know if anybody on the Council has been out there or not. I was never notified about a meeting on this.

Sean Curry, Representing Olde Tavern Lane – We have fulfilled all the aspects of the subdivision plan as approved by the Planning Board. We request a formal street acceptance.

Nipun Jain – The planning board has looked at the approval and ensures that the conditions have been met. The planning board consultant has looked at the project and provided a memo that says the work has been carried out and accomplished as per the approved plans.

President McMilleon – What is the extent of the obligation on the part of the town?

Rob Desmaris – The developer has met all of the requirements, supplied all of the documentation, we submitted this to the Council in November. The December meeting was closed early. Our obligation is snow plowing, trash removal.

Several residents spoke in favor of the street acceptance, no speaker request form was signed.

Councilor Pinierio – If the council accepts Olde Tavern Lane when would the services start?

Brian Gilbert – Snow plowing as soon as it is needed. Trash pick-up will start after we call the contractor.

*Councilor Pinierio – I move to approve 2004-132*

*Councilor King – second*

Councilor Benson – I just want to say there are instances when this can't happen and people buy houses under the impression that they can. I will work with Nipun and Brain but, we need to be very sure that consumers know when they buy a home that they are not eligible for town services. I think with some of the special permits that we have come up with we have created streets that we can't accept and there is a lot of animosity about it because people are paying taxes just like everybody else and they are not getting plowed and trash pick up. I think right now the

responsibility rests on the Real Estate Agents and it is not being done. We need to come up with a way to let people know.

Roll Call Vote – Unanimous

**2005-8 To request the Municipal Council to amend the Zoning Bylaw Table of Dimension and Density Regulations – Mayor Hildt sponsor cont.**

President McMilleon – reads 2005-8 into the record. We don't have a recommendation from Ordinance and the Planning Board has not met on this so I am not going to open the public hearing.

Councilor Benson – I move we continue 2005-8 to our March 8<sup>th</sup> council meeting and public hearing.

Councilor Pinierio – second

Councilor King – This needs to go back to the Ordinance Committee.

Councilor Benson – I will amend my motion, March 8 council meeting and public hearing and Ordinance committee.

Voted – Unanimous

Councilor Chandler – Just a comment to the gentleman that made a comment about watching out for zoning changes, this is one that some people want to keep their eye on very closely.

**NEW BUSINESS**

**2005-13 To vote to approve Election Calendar for the year 2005 – President McMilleon sponsor**

President McMilleon – reads 2005-13 into the record.

Councilor Benson – I move for approval of 2005-13 as submitted.

Councilor Pinierio – second

Voted – Unanimous

**2005-19 An Order to request the Municipal Council to authorize the Town of Amesbury to overspend the Snow and Ice Budget for FY2005 – Mayor Hildt sponsor**

President McMilleon – reads 2005-19 into the record.

Councilor Headley – I move we refer this to Finance Committee.

Councilor Benson – We don't officially have a Finance Committee meeting yet, we have suggested the 23<sup>rd</sup>. If you want to amend your motion to be February 23<sup>rd</sup>.

Councilor Headley – Ok

President McMilleon – More than a year ago I requested to the Mayor and Mike Basque that on any financial matter that they would provide backup information on the impact to the town. I would request that Mike Basque attend the Finance Committee and Council meetings and make that a standard practice on financial requests going forward.

Councilor King – I would ask that on first readings if the financial documentation is not here that it be sent back to the Mayor and not even be taken because I feel we share the responsibility in that. It is just as much our responsibility to look something over and not accept it and equally the Mayor's responsibility for not sending it.

Councilor Lawrence – I agree with Councilor King, we brought this up before. If we don't have the backup information that it can't even make it on our agendas.

President McMilleon – If something comes down and gets put on the agenda, if it comes to us as a first reading and we don't have that information we won't even refer it to Finance, we will refer it back to the Mayor or Mike Basque for the information.

Councilor Headley moved to refer to Finance Committee 2/23/05, Councilor Benson second.

Voted – Unanimous

**2005-20 An Order to vote to appropriate \$60,000 from Free Cash to demolish and remove the structures at Trader Alan's Truck Stop – Mayor Hildt sponsor**

President McMilleon – reads 2005-20 into the record.

Councilor Benson – I move we refer 2005-20 to the Finance Committee 2/23 and schedule a public hearing at the March 8<sup>th</sup> meeting of the Municipal Council.

Councilor Pinierio – second.

Voted – Unanimous

**LATE FILE**

President McMilleon – I need a motion to accept a late file.

Councilor Benson – I move we accept a late file.

Councilor Pinierio – second

Voted – Unanimous

**2005-12 Amend Municipal Council Rules 5B and 11A – Councilors King and Larnard**

President McMilleon – reads 2005-12 into the record.

Councilor Benson – I move we refer this to Rules and Procedures.

Councilor Pinierio – second.

Councilor King – Should this go to Rules and Regs or should it go straight to second readings similar to yours.

President McMilleon – I know when we were debating that you kept making the comment that it wasn't referred, it was. It sat there for more than a year. The council does have the ability, if something sits there that long to take it out and act on it. First readings we are required to refer.

Councilor King – At some point I would request that we step back and review all our committees.

Voted – Unanimous

### **COUNCIL COMMUNICATIONS**

Monies generated by the Cemeteries

Jane Snow – Letter to the Municipal Council – (attached)

Brian Gilbert – Response to Ms. Snow's letter – (attached)

Councilor Benson will set up a meeting with Mike Basque, Brian Gilbert, Mayor Hildt, Councilor Chandler and Councilor Pinierio within a couple of weeks.

President McMilleon wants the Councilors to look over the committee assignments to make sure everyone is agreeable.

Meeting with the Amesbury Alliance and Municipal Council set for Feb 23<sup>rd</sup> @ 7:30 in the Town Hall Auditorium.

Councilor King – Mike Corcoran will be at the March 8<sup>th</sup> Council meeting for an update.

Councilor Larnard – Requests that Mike Costello and Steve Baddour attend the March 8<sup>th</sup> Council meeting.

Councilor Larnard – Ad Hoc committee for Liaisons – Councilors Larnard, King and Benson

Adjourn 10:00

Respectfully submitted,  
Assistant Town Clerk