

Municipal Council Meeting Minutes
Tuesday, March 14, 2006
7:00PM Town Hall Auditorium

Call To Order 7:00PM

Pledge of Allegiance – Councilor Lindstrom

Roll Call – Ann Connolly King, Robert Lavoie, Alison Lindstrom, Donna McClure, Mario Pinierio, Michelle Thone, Hank Brennick, Christopher Lawrence
Roger Benson excused absence

Public Comment

Nipun Jain, Town Planner informs residents that the Office of Community and Economic Development is undertaking a housing needs assessment study and therefore will be creating a new Ad-Hoc committee for housing. Anyone interested call his office.

Tracey Chailfour, 25 Clarks Road read a letter regarding Amesbury's process for handling 40B applications (attached).

Council Response to Public Comment

Councilor Pinierio requests a representative from the Conservation Commission and the Zoning Board of Appeals to come to the next council meeting. President Lawrence will speak to the boards.

Licenses and Permits

2006-004 Auto Class II – Portal Auto Mall, Inc. – 30 Market St

President Lawrence reads 2006-004 into the record. *Councilor Brennick moves to take 2006-004 off the agenda, Councilor Pinierio second. Voted – Unanimous*

2006-029 Maggie Sundae, 60 Friend St. – Common Victualler

President Lawrence reads 2006-029 into the record.

Scott Richards & Kim Raymond owners of Maggie Sundae state their hours of operation and general menu.

Councilor Thone motions to approve 2006-029, Councilor McClure seconded. Voted – Unanimous

2006-035 J Buck's Espresso & Wine Bar, 32 Elm St – Common Victualler

President Lawrence reads 2006-035 into the record.

Jenny Buck states that J Buck's will be a high end coffee and wine bar where you can also purchase fine wines by the bottle, cheeses and pastries. Councilor Pinierio asks if they have applied for a liquor license; Ms. Buck states it is in the process. Councilor Brennick reads a memo from the Building Inspector asking the council to not issue a license at this time until he receives further information.

Ms. Buck states that her Contractor has been in touch with the Health Department and the Building Inspector and he is in the process of complying with their requests and asks to postpone this until next month.

Councilor Brennick motions to continue until the April 11th meeting, Councilor Pinierio seconded. Voted – Unanimous

Mayoral Appointments

2006-030 Re-appointment – William Croteau, Board of Registrars term 4/1/06-3/31/09

President Lawrence reads 2006-030 into the record. Town Clerk Bonnijo Kitchen states the practice has been in the past that reappointments do not have to appear in front of the council. Council Pinierio asks to postpone the vote. President Lawrence explains this is a reappointment and will

become effective in 15 days 2006-030 will have to be approved or denied. *Councilor Pinierio moves to deny 2006-030. Motion fails no second.*

Councilor Lavoie moves to approve 2006-030, Councilor King seconded. Voted – 5 Yes, 3 No (Pinierio, Thone, Brennick)

2006-031 Appointment – Marc Lisle – Cultural Council term to expire 6/30/09

President Lawrence reads 2006-031 into the record.

Marc Lisle, 39 Millyard was involved in Brookline Artists and Studio events and has been a practicing artist for 22 years. Councilor Thone thanks Mr. Lisle and feels he will be a great asset to the Cultural Council. *Councilor McClure moves to approve 2006-031, Councilor Lindstrom seconded – Voted – Unanimous*

2006-032 Appointment – R. Scott Penoyer, Historical Commission term to expire 6/30/09

President Lawrence reads 2006-032 into the record.

Scott Penoyer, 8 Cleveland Street has been a resident for 7 years, he is interested in the Town and would like to give back and do something good for the community. Councilor Thone asks Mr. Penoyer why he chose the Historical Commission. Mr. Penoyer states he has an interest in the history of the area. Councilor Thone asks what prospective Mr. Penoyer can give to the committee that they don't already have. Mr. Penoyer states he is a scientist and can bring a fair unbiased and analytical point of view to anything he looks into. Councilor McClure asks if Mr. Penoyer if he has ever been to a Historical Commission meeting; he states he has not. Councilor Thone asks Mr. Penoyer what his position is on preservation. He states in general it is vital to the town both for keeping with the character of the town and tourism. *Councilor Pinierio motions to accept 2006-032, Councilor Thone seconded. Voted - Unanimous*

Second Readings

Public Hearings

2006-008 An Ordinance to Amend Article 7 – Incorporate Zero-Based Budgeting – President Lawrence, Councilor Pinierio sponsor cont.

President Lawrence reads 2006-008 into the record. Councilor Lavoie read the recommendation of the Ordinance Committee. Councilor Brennick read the recommendation of the Finance Committee. Councilor Pinierio asks if it was decided which departments would go first; Councilor Thone believes it would be the purview of the Mayor to determine. Councilor King requests the sponsors to reconsider submitting 2006-008 as a resolution. She reads section 5-2 of the Charter submission of the budget. She has no issues with recommending the Mayor consider zero based budgeting but, the council does not have the authority to tell the Mayor how to put forth the budget. Councilor Lindstrom disagrees; she sees the word "form" as meaning Excel spreadsheet or some other software. She feels it is a legislative decision what type of budgeting not what form. Councilor Thone does not believe this is dictating to the Mayor what form the budget is presented, it is a process. She fully supports this bill. President Lawrence states that the issue of this being a process and not the form came up in Ordinance and Finance. He would like to see this move forward. Councilor McClure feels this is a great tool to help control spending. This Ordinance has been discussed at great length and the State legislature thinks this is a great idea for Massachusetts. She urges the council to pass 2006-008. President Lawrence closes the public hearing. *Councilor Thone motions to accept 2006-008 with the recommend changes from Ordinance: 1) In the first section after the words "Finance Committee" add or successor entity 2) Strike Section 2 3) Section 3 paragraph 2 at the beginning of the paragraph add the words For the purposes of definition said zero based budget shall start with... 4) Also in section 3 paragraph 2, the words "the minimum" is replaced with the words a reasonable*

amount necessary. Finance Committee: and section 7.2.2 to read: Commencing in Fy08 the proposed operating budget submitted by the Mayor shall be a zero-based budget for 1/3 of all departments of the Town. One third of all the departments shall be staggered every fiscal year thereafter. Said budget shall be subject to all of the requirements of sections 5-1, 5-2 and 5-3 of the Amesbury Home Rule Charter. Councilor McClure seconded. Roll Call Vote: 7 Yes, 1 No (King)

2006-022 An Order to Overspend the Snow and ice Budget FY2006 – Mayor Kezer sponsor cont.

President Lawrence reads 2006-022 into the record. Councilor Brennick read the recommendation from Finance to approve. President Lawrence opens the public hearing. Councilor Pinierio asks Brian Gilbert how much was over spent and on what. Mr. Gilbert explains the town received 50.5 inches of snow from 16 snow events, 18 call backs for icing and one partial clean up on the center. It was a typical year with a lot of activity. Because last year was so difficult and costly the machines were not fixed when they were put away, the cost was deferred to this year. President Lawrence closes the public hearing. *Councilor Brennick motions to adopt 2006-022 to overspend the budget, Councilor Pinierio seconded. Roll Call Vote: 8 Yes – Unanimous*

2006-007 An Ordinance Regulating Bidding on Public Construction Projects – President Lawrence, Councilor Pinierio sponsor cont.

President Lawrence reads 2006-007 into the record. Councilor Lavoie read the recommendation of the Ordinance Committee: We insert the following language in *italic* text as the first paragraph in Section 1 and the existing paragraph in Section 1 becomes paragraph two of Section 1.

Section 1. Every contract governed by M.G.L. c.149, §44A(2) and M.G.L. c.30, §39M which is awarded by the Town of Amesbury, or any sub-division thereof, where the amount of the contract is more than one-hundred thousand dollars, and any subcontract awarded in connection with any such general contract where the amount of such subcontract is more than twenty-five thousand dollars, shall be deemed to incorporate by reference the provisions of sub-parts (a) through (e) of this subsection together with the provisions of Sections 2 through 7 of this ordinance.

We insert the following language in *italic* text as a new Section 6.

Section 6. The provisions of this ordinance shall not apply to construction projects for which the low general bid was less than one-hundred thousand dollars, or to work performed pursuant to subcontracts governed by G.L. 149, §44F where the bid for such subcontract was less than twenty-five thousand dollars.

We re-number old Section 6 to Section 7.

And further recommend that the threshold amounts specified in Sections 1 and 6 be reviewed with a recommendation that the Municipal Council consider such higher threshold amounts as may deem appropriate upon due consideration.

Councilor Lindstrom further amends that the values in Section 1 and 6 be changed: replace \$100,000.00 with \$250,000.00 and \$25,000.00 with \$60,000.00. At the end of section 1B insert the words *as warranted*. Add a new section 7a – this ordinance shall not be interpreted to mean that any project meeting the requirements to invoke this ordinance constitutes closed shop bidding. President Lawrence opens the public hearing.

Mike Nut, 24 Sparhawk St., is a union apprentice carpenter. Mr. Nut feels the apprentice program is invaluable. He has been highly trained in safety for all forms of light and heavy commercial construction, has access to health insurance and makes a fair wage. He supports 2006-008.

Mike Greaney, Orchard St., Mr. Greaney states that any federal job requires prevailing wages to be paid and OSHA oversees safety. He feels this bill goes too far requiring all contractors to be union. He feels good supervision, good engineering departments and clerks, not just apprenticeship programs are needed. Just because a job goes to a union contract, does not 100% guarantee good work. He does not support 2006-007.

Brian Gilbert, Director of DPW states his real concern with 2006-007 is with the apprentice program. He is an advocate of training but feels this provision in the ordinance would limit competition on all contracts. There are already organizations with provisions in place to assure qualified contractors are bidding on jobs. He believes diligent oversight is the key to a good job and asks that the apprentice obligation be removed or at a minimum provides a dollar threshold.

Kevin McDonald, 28 Whittier St. has been a union carpenter for 20 years. He feels a well trained person making a good wage and one that receives health benefits is able to reinvest in their community. He support 2006-007.

Chris Hyde, 17 Acadia/Kimball Rd would like to know who wrote the questions and answers handed out by President Lawrence.

Bob Smith, resident of Amesbury for over 40 years, employed by the carpenters union in Boston for 30 years. Mr. Smith speaks in favor of the apprenticeship program. He feels it train the best quality carpenters you could hire for a job. He supports 2006-007.

Annette Dinietolis, 21 Orchard St., feels 2006-007 will eliminate competition and shut out some local contractors. She likes the free market system and will not support 2006-007.

Kevin McDonald, 28 Whittier St. – Mr. McDonald states that union carpenters are not saying that a non union tradesman can not do the job, they are just not as organized. They do not have medical insurance or a pension program that will assure a quality of life after retirement. He supports 2006-007.

Jason Faria, former resident of Amesbury. Mr. Faria feels that Councilor Lindstrom recommendation of 7A would be illegal. He supports the apprenticeship program and feels 2006-007 would help protect the town again irresponsible contractors especially now because the Attorney Generals office is short handed lawyers and investigators. Investigations against irresponsible contractors can now take months and months.

President Lawrence closes the public hearing. He points out that 2006-007 is not union specific; it sets minimal requirements for all contractors bidding on contract in Amesbury. Councilor King asks; by mandating an apprentice program doesn't that make it union? President Lawrence does not believe so. Councilor Lindstrom believes it is rare that a non union company would have an apprentice program. Councilor King asks President Lawrence who authored the questions and answers he passed out. He replies they are boiler plate questions received from a union

representative. Councilor McClure does not want to appear to be against union workers' they are good workers who take classes to do the right thing. She has questions about the definition of apprentice programs however, likes the idea of apprentice programs. By adjusting the dollar amount on thresholds it will allow local non union contractors to bid on projects. Councilor King asks the council not to vote on 2006-007 this evening in order to give everyone time to go over the information passed out and get more familiar with Mass State Law.

Councilor Lindstrom motions to accept 2006-007 as it was amended by the Ordinance Committee but further amended in Section 1 to replace \$100,000 with \$250,000 and \$25,000 with \$60,000. Further begin Section 1, part b with the words "when deemed appropriate by the Town's hiring authority". Section 6 change \$100,000 to \$250,000 and the \$25,000 to \$60,000. Councilor Pinierio seconded. Councilor Lavoie is not in favor of this ordinance he feels the system in place is working, this change could create problems and the towns/cities that have adopted this type of legislation are much bigger municipalities than Amesbury.

Roll Call Vote: 6 Yes, 2 No (King, Lavoie)

Recess 8:45 – 9:00

2006-016 An Ordinance to Amend Article 31 – Collective Bargaining Agreements – Councilor Pinierio, President Lawrence sponsor cont.

President Lawrence read 2006-016 into the record. Councilor Lavoie read the recommendation from the Ordinance Committee: Section 1 as provided and that Section 2; 31.2 read as follows: The initial request for appropriations for funding of a labor contract agreement must be submitted by the Mayor as a unique measure separately from the annual operating budget and be accompanied by a copy of the contract for which funding is requested. Section 3 be stricken and to adopt as amended.

President Lawrence opens the public comment period.

Craig Bailey, President of the Amesbury Police Association. Mr. Bailey asks for clarification of 31.2. President Lawrence explains that Section 1 change is housekeeping and Section 31.2 is requesting any appropriations for funding requests for labor contracts be accompanied by the contract to view. Councilor Thone further explains Article 31 requires the Municipal Council approve funding for contracts. In the past it has been buried in the budget not a separate item. This will allow the municipal council to understand the financial impacts of new contracts. Officer Bailey is concerned the municipal council is trying to enter into contract negotiations. President Lawrence closes the public hearing. Councilor Thone states she believes that by striking Section 3 it addresses the concern raised by Officer Bailey. Councilor King shares some of the concerns of Officer Bailey and asks if the intent is to send back or change some of the cost items negotiated in the contract. Councilor Pinierio asks Councilor King if she would like to know what is in the contract before she voted on it. Councilor King responds that she trusts the Mayor to negotiate a contract in the best interests of the Town. Councilor McClure states she wants to know the cost of individual contracts separate from the budget. She needs to know if the taxpayers can afford the extra costs.

Councilor Thone motions to accept 2006-016 as amended by Ordinance, Councilor Pinierio seconded – Roll Call Vote – 8 Yes

2006-017 An Ordinance to Amend Article 4 – Town Reports – Councilor Brennick sponsor cont.

President Lawrence read 2006-017 into the record. Councilor Lavoie read the recommendation of the Ordinance Committee to approve as submitted. President Lawrence opens and closes the public hearing.

Bonnie Shultz, Market Street – Ms. Shultz asks for an explanation of 2006-017.

Councilor Brennick read 2006-017. Councilor King explains that Councilor Brennick is rewriting a bylaw and applying dates to a provision in the Charter. She feels this is attempting to rewrite or amend the Charter and should go through the Charter Commission, she does not feel the municipal council has the authority to tell the mayor how and on what date to do his job. Councilor Lavoie initially shared Councilor Kings concerns regarding the dates. He now feels half of this ordinance corrects the reference to a town and the other half just translates the charter into specific dates. Councilor King states that review and changes to the bylaws should be done through an Attorney. *Councilor Thone motions to accept 2006-017, Councilor McClure second. Roll Call Vote – 7 Yes, 1 No (King)*

Late File

President Lawrence asks for a motion to accept a late file. Councilor Lavoie motioned to accept, Councilor McClure second – Voted – Unanimous

New Business

2006-033 –A Request the Municipal Council vote to adopt MGL Chapter 157, Sections 1 & 2 Pertaining to Veterans' Benefits – Mayor Kezer sponsor

President Lawrence read 2006-033 into the record. *Councilor Lindstrom motions to refer 2006-033 to the Finance Committee. Councilor Pinierio seconded. – Voted Unanimous*

2006-034 A Request that the Municipal Council recognize the Amesbury Medical Reserve Corps – Mayor Kezer sponsor

President Lawrence read 2006-034 into the record. *Councilor Lavoie motions to send 2006-034 to the Finance and Ordinance Committee, Councilor Lindstrom seconded. Voted – Unanimous*

2006-036 An Order to authorize the transfer of \$50,000 from Reserve for Unforeseen to Legal Services – Mayor Kezer sponsor

President Lawrence read 2006-036 into the record. *Councilor Thone motions to refer 2006-036 to Finance Committee, Councilor Pinierio seconded – Voted Unanimous*

Correspondence:

President/Vice President Communications

President Lawrence states the Council budget for FY07 will be the same as last year.

President Lawrence read an e-mail from Councilor Brennick regarding appointment terms of the Town Clerk. He appoints an ad-hoc committee to look into the town clerk's position and come up with an answer in regards to term. Councilor King, Councilor Lavoie and Councilor McClure are appointed.

Communication from Elected Officials, Boards and Commissions

Councilor Lindstrom updated the council on the Policy Committee on Education

Council Communications, Announcements and Committee Reports

Councilor King – to address a "Formal" correspondence received from Council President.

Councilor King asks President Lawrence to site where, in the Council Rules & Procedures, he has the authority to formally address her in such a manner. President Lawrence sites Rule 15 Decorum. He states he felt, as council president, he had to address issues brought to his attention. Councilor King asks President Lawrence to address her in a public forum if he feels the need to do so in the future.

Councilor Brennick motions to adjourn, Councilor McClure second – Voted Unanimous

Respectfully Submitted,
Assistant Town Clerk