

Amesbury Municipal Council Minutes
Tuesday, May 8, 2007
Town Hall Auditorium

Call To Order 7:09PM

Pledge of Allegiance – Councilor Iacobucci

Roll Call: Ann Connolly King, Robert Lavoie, Alison Lindstrom, Mario Pinierio, Michelle Thone, Roger Benson, Thomas Iacobucci, Christopher Lawrence

Donna McClure late

Accept Minutes February 13, 2007 and March 13, 2007 – Councilor Benson motions to accept, Councilor Pinierio second – Voted Unanimous

Public Comment

Domestic Violence Awareness – Detective Bob Wile, Amesbury Police Department and Marti Chadwick, Jeanne Geiger Crisis Center – Copy of presentation (attached).

Ken Turner, 37 Pleasant Valley Rd. – Mr. Turner states the recall process in District One is neither divisive nor ugly it is responsive. The Charter allows for the recall of elected officials who have earned dissatisfaction of the majority of the citizens. The Committee to recall Michelle Thone has and will continue to conduct itself in a manner that is professional, remain firm to the recall process and will continue to abide by the provisions as set forth in the Amesbury Town Charter and encourages all voters in District One to vote.

Joan Miller, 2 Maudsley View Lane – Ms. Miller is involved in the recall process because she believes it is time for a change and the right thing to do to make things better in the short term and long term. She encourages both supporter and non supporters to vote so their voices can be heard.

Len Johnson, Main Street – Mr. Johnson wants everyone who is registered in District One to come out and vote on the recall.

Fred Howell, 486 Main Street – Mr. Howell has heard some people say they would not sign the petition because of fear of retribution in some manner; vandalism of a car, their home or other personal property. He feels the council should be concerned about this environment of fear. The politics of fear and arrogance are unacceptable to most citizens. He encourages the registered voters of District One to speak out and make a change and vote yes on Monday, May 21st.

James Thivierge, Friend St – Mr. Thivierge does not believe the grounds for the recall are valid.

Jane Snow, 44 Fern Ave. – Ms. Snow feels very strongly against the recall. She feels a dangerous precedent is being set basing it on demeanor. She is asking people to think long and hard before they participate.

Pam Fenner, 8 Winkley St. – Ms. Fenner supports the recall because it is allowed in the Charter and she believes the grounds are sufficient. She was disappointed Councilor Thone didn't call for a meeting after the recall process started to meet with the citizens in her District. She hopes people come out to vote for or against on May 21st.

Mike Greaney, 50 Orchard St. - Mr. Greaney does not agree with the recall and fully supports Councilor Thone.

Stephen Dunford, 27 Woodman Road – Mr. Dunford read a prepared statement (attached).

Nipun Jain, Town Planner – Mr. Jain gave an overview of 40R, bill 2007-055.

Council Response to Public Comment

Councilor King commented on Domestic Violence, she believes Amesbury needs to look at it as a public health issue. It is important to address this issue because it is also financial hardship on the SPED services and the police department.

Councilor Lavoie states that 40R is very important planning tool offered by the state that will be very beneficial to the town.

Councilor Thone states that she believes all the issues surrounding the recall are simply a difference of opinion and the time for change is the November election.

Recess 8:25PM

Licenses and Permits

2007-051 Automatic Amusement – Barking Dog Ale House d/b/a Tanya's Pizza
The application was withdrawn by the applicant.

2007-052 Common Victualler – Barking Dog Ale House d/b/a Tanya's Pizza (transfer)
President Lawrence read 2007-052 into the record.
Jeff Nahas states he purchased Tanya's building and business. He plans on running it as it is for now with the same type of food.
Councilor Pinierio motions to accept 2007-052, Councilor Benson second. Voted – Unanimous

2007-053 Junk Dealer – Yesterday's Charms & Redesign
President Lawrence read 2007-053 into the record.

Beverly Drew states she is an interior redesigner specializing in antiques and collectables.
Councilor Benson moves for approval of 2007-053, Councilor McClure second. – Voted Unanimous

2007-048 Pool Table License Renewals 2008 – Sunday and Weekday (attached).
President Lawrence read 2007-048 into the record.
Councilor Iacobucci moved for approval of 2007-048, Councilor Benson second – Voted Unanimous

2007-049 Bowling License Renewals 2008 – Sunday and Weekday (Attached)
President Lawrence read 2007-049 into the record.
Councilor Benson abstains from the vote.
*Councilor Lavoie moves for approval as submitted, Councilor Iacobucci second
Voted – 8 Yes, 1 Abstain*

2007-050 Junk Dealer License Renewal 2008 (Attached)
President Lawrence read 2007-050 into the record.
Councilor Benson moves to approve, Councilor Pinierio second – Voted Unanimous

2007-062 Common Victualler License – Naples Pizza, 142 ½ Elm St
President Lawrence reads 2007-062 into the record.

Robert Norton states he is opening a pizza, sandwich and salad shop.

Councilor Benson moves for approval of 2007-062, Councilor Pinierio second – Voted Unanimous

Recess – 8:25PM

Councilor Iacobucci motions to take 2007-046 Nancy Drive out of order. Councilor Benson second – Voted Unanimous

2007-046 Change Nancy Drive to Woodwell Circle – Councilor Iacobucci sponsor.
President Lawrence read 2007-046 into the record and opens the public hearing.

Councilor Iacobucci read the recommendation of the Ordinance Committee to accept.

Councilor Pinierio motions to accept 2007-046, Councilor Benson second

President Lawrence closes the public hearing.

Roll Call Vote – Unanimous

Second Readings

2007-031 An Order to Amend Rule 20 – Electronic Messaging Policy of Amesbury Council 5th
Session Rules – Councilor Lavoie sponsor cont.

President Lawrence read 2007-031 into the record.

Councilor Iacobucci moved the recommendation of the Ordinance Committee to approve, Councilor Lavoie second – Voted – Unanimous

2007-040 An Ordinance to Amend the 5th Session Council Rules & Procedures – Councilor Iacobucci sponsor cont.

President Lawrence read 2007-040 into the record.

Councilor Lavoie read the recommendation of the Ordinance Committee to accept 2007-040 as submitted with the following amendments. Section 1 paragraph 2, line 2 the letter “s” after the word speaking should be the letter “a”. Section 1, paragraph 2 at the end a sentence would be added that would say “subsequent rotation shall be at the discretion of the presiding officer “also in Section 2, paragraph 2, line 2 after the word “motion” would be the words “for which no second shall be required” and then in Section 4 the last line the word “enforced” would be replaced with the words “dealt with”.

Councilor King does not support changing any of the rules and procedures at this time. She finds the roll call rotation very tedious and not necessary in a well run meeting. She feels it could also limit debate. She believes the whole Rules and Procedures document is very chaotic and needs to be rewritten in a language that the residents can understand. Under Section 3 Rule 11B she questions who will be forming committees.

Councilor Lavoie is in favor of the rules. He feels it recognizes the equality of each member as 1/9 of the Council. If one member wants the Council to talk about an issue they should have that right.

Councilor Benson does not see the need for Order of Speaking, he feels if the meetings were run tighter and fairer we wouldn't be having this discussion.

Councilor McClure thinks 2007-040 does make the meetings tighter and fairer. It allows each to speak more than once.

Councilor Iacobucci thinks any member of the Council should be able to make a motion on any item on the agenda. It then can be amended by another councilor if they wish. He states the Order of Speaking guarantees each councilor 10 minutes to speak on each agenda item.

Councilor Lindstrom moves to accept 2007-040 as amended by the Ordinance Committee, Councilor Pinierio second. – Voted 7 Yes, 2 NO (Benson, King)

2007-045 An Ordinance to Amend Rule 5E – Order of Business of the 5th Session Council Rules & Procedures – Councilor Iacobucci sponsor cont.
President Lawrence reads 2007-045 into the record.

Councilor Lavoie read the recommendation of the Ordinance Committee as follows:

Section One: #6; delete “Response to Public”

Fix the numbers starting with “9” change to 8, “10” change to 9, “11” change to 10, “12” change to 11.

Section Two: at the end of the sentence after the word “Procedures” add for guidance purposes

Section Three: line 2 after the word “shall” add the word be.

Change the proposed public comment form by adding the rules of decorum on the reverse side and add a sentence above the Signature line that reads as follows: This confirms that I have read and understand the rules of decorum printed on the reverse of this form.

Councilor King asks regarding Council Comment if it gives the right to Councilors to comment on what ever they choose. Councilor Lavoie states there would be no limitations on the council comment section. Councilor King hopes the Council President will take the responsibility of informing the Clerk as to what is a measure or non-measure. President Lawrence states he always does.

Councilor Lavoie is in favor of this rule change. He states that Rule #4 tells the council when and how any councilor can propose a rule change. He believes any councilor has the right to write up a rule change, file it and see if the other eight councilors agree.

Councilor Pinierio will support this bill.

Councilor Thone thinks this is an excellent proposal that really refines the process, she will be supporting it.

Councilor Benson asks Councilor Iacobucci if the line about financial interest is going to be read in the public forum or just for recording purposes. Councilor Iacobucci replies just for recording purposes in the Clerks Office.

President Lawrence supports this bill including the financial discloser.

Councilor Iacobucci explains that items under Public Hearings can be voted, voted later in the meeting under second readings or voted at another meeting.

Town Clerk Bonnijo Kitchin is concerned that by being listed under public hearings, licenses and permits and mayoral appointments will need to be published in the newspaper which will drive up the cost of advertising. Discussion continues on what needs to be published as public hearings.

*Councilor Benson motions to approve 2007-045 as amended by the Ordinance Committee
Voted - Unanimous*

Public Hearings

2007-028 An Order to Provide for Salary Increases – Councilor Lavoie sponsor cont.
President Lawrence reads 2007-028 into the record and opens the public hearing.

James Thieverge, Friend Street – Mr. Thieverge agrees with an increase but not the amount proposed by Councilor Lavoie.

Claude Gonthier, Kimball Rd. – Mr. Gonthier believes a raise is warranted. He would like to see the council receive \$3,000 - \$5,000 a year and the Mayor \$80,000.

President Lawrence closes the public hearing.

2006-105 An Ordinance to accept MGL Ch 184 Sec 52 and Amend 98-204 – Councilor Lindstrom, Lawrence sponsor cont.
President Lawrence opens the public hearing and closes the public hearing.

2007-038 An Ordinance to Amend Articles Two and Three of the Town Bylaws – Councilor Iacobucci sponsor cont.
President Lawrence opens the public hearing and closes the public hearing.

2007-041 An Ordinance that the Municipal Council Accept Art. 17, Sec. 9 – Cemeteries Ordinance – Mayor Kezer sponsor cont.
President Lawrence opens the public hearing.

Brian Gilbert, Director of DPW – Mr. Gilbert states in the Ordinance it says the Mt. Prospect Cemetery gate closes at 2:00PM. The compost facility closes at 3:00PM so that would have to be changed to 3:00PM.

Councilor Iacobucci asks Brian Gilbert if he is comfortable with enforcement authority; Mr. Gilbert answers he is.

Councilor Lindstrom states that at the Ordinance Committee meeting they talked about animals being leashed and in the current Cemetery Ordinance there is no mention of them. Kendra replies it was discussed at Ordinance and if the council wanted to add it, it would be part of their amendments.

President Lawrence closes the public hearing.

Second Readings

2007-028 An Order to Provide for Salary Increases – Councilor Lavoie sponsor cont.
President Lawrence reads 2007-028 into the record and opens the public hearing.

Councilor Lavoie read the recommendation of the Ordinance Committee to discharge to the Municipal Council with a recommendation to approve with the following changes: example paragraph in section 3 be struck and the last 2 lines of section 3 be amended to read that the CFO shall recommend to the Municipal Council a comparable alternate index or method to compute such adjustment as defined herein for possible amendment by the Municipal Council of this Ordinance; and further recommend that example language be embodied in the minutes of the Municipal Council meeting for future guidance.

Councilor McClure read the recommendation of the Finance Committee as follows: Councilor Thone motioned to recommend to the council not to adopt 2007-028 but to consider an expense account in lieu of this ordinance for the Municipal Council. Councilor McClure wants to confirm that the Mayor put the increase in the budget they just received because the council can not add to the budget if the bill passes.

Councilor McClure motions to table 2007-028

Voted – Unanimous

2006-105 An Ordinance to accept MGL Ch 184 Sec 52 and Amend 98-204 – Councilor Lindstrom, Lawrence sponsor cont.

Councilor Lavoie read the recommendation of the Ordinance Committee to discharge back to the Municipal Council to accept 2006-105 with the following changes (attached).

*Councilor Iacobucci moved the recommendation of the Ordinance Committee
Councilor Lindstrom amends the 450%in the first paragraph to 500%*

Councilor Lindstrom believes this is win, win situation for the town. There are many departments who could use help with various jobs. It gets seniors out of the house and they get paid for their volunteer services through a tax break.

Councilor Thone asks what 500% of the poverty guideline is currently. Councilor Lindstrom answers 4 to 6 hundred thousand dollars for a single family and 62 for a family of two. Councilor Thone asks about the sentence added “as established by appropriation in the annual operating budget”. Councilor Lindstrom explains that when one segment doesn’t pay everybody else has to pick it up. The liability cap will be up to the appropriation set by the Mayor and Council.

Councilor Iacobucci explains the change from 450% to 500% only broadens the amount of people eligible for the tax break. It will be up to the town to determine what will be appropriated for a cap which will limit the number of people that can participate. He feels the more people provided the opportunity to the better.

Councilor Lindstrom amends the 450%in the first paragraph to 500%

Voted – Unanimous

Councilor Iacobucci motioned to adopt as submitted per the Ordinance Committee with the amendment which would be 500% of Health and Human Services Poverty Guidelines.

Roll Call Vote – Unanimous

Councilor Benson motions for New Business to be taken out of order

Voted – Unanimous

New Business

2007-001 FY08 Budget – Mayor Kezer sponsor

Councilor Benson moved to refer 2007-001 to Finance Committee

Councilor Thone amends to be provided backup for the budget from the Mayors office

Voted – Unanimous

2007-047 Accept a \$5,000 donation from The Provident Community Foundation – Mayor Kezer sponsor

Councilor Benson moves to refer 2007-047 to the Finance Committee

Voted – Unanimous

2007-054 Accept a \$5,000 grant from EOPS for 911 training – Mayor Kezer sponsor

Councilor Iacobucci moves referral to Finance Committee

Voted – Unanimous

2007-055 Adopt as an Overlay District, MGL c.40R and 760 CMR 59.00 and MGL c40S, Smart Growth Zoning District – Mayor Kezer sponsor

Councilor Lavoie moves to refer 2007-055 to the Planning Board, Ordinance Committee and Finance Committee and schedule a public hearing for the council and bring it back before the council at the May 23rd special meeting.

Voted – Unanimous

2007-056 Accept a \$7,800 grant from EOPS for firefighting equipment – Mayor Kezer sponsor

Councilor Benson moved to refer 2007-056 to the Finance Committee

Voted – Unanimous

2007-057 An Order to Place a Public Policy Question “An Act Relative to Limiting the Use of Eminent Domain” on the 11/06/07 ballot – Councilor Lindstrom sponsor

Councilor Benson moves to refer 2007-057 to the Ordinance Committee

Voted – Unanimous

2007-058 An Ordinance to amend Section IV Amesbury Zoning Bylaws – Councilor Iacobucci sponsor

Councilor Iacobucci motions to refer it to the Ordinance Committee and Planning Board

Voted – Unanimous

2007-059 An Order to transfer within Landry Stadium Fund – Mayor Kezer sponsor

Councilor Benson moves to refer 2007-059 to the Finance Committee

Voted – Unanimous

2007-060 An Order to transfer to Snow and Ice to cover FY07 – Mayor Kezer sponsor

Councilor Benson moves to refer 2007-060 to the Finance Committee

Voted – Unanimous

2007-061 An Order to transfer between General Department Funds – Mayor Kezer sponsor

Councilor Benson moves to refer 2007-061 to the Finance Committee

Voted – Unanimous

Councilor Iacobucci moves to accept 2007-063 as a late file

Voted – Unanimous

2007-063 An Ordinance to establish light and sound enforcement provisions in the Town of Amesbury Zoning Ordinance and/or General Ordinances – Councilor Lindstrom sponsor
Councilor Iacobucci moves to refer 2007-063 to the Ordinance Committee and the Planning Board
Voted - Unanimous

Second Readings Cont.

2007-038 An Ordinance to Amend Articles Two and Three of the Town Bylaws – Councilor Iacobucci sponsor cont.

Councilor Lavoie read the Ordinance Committee recommendation to accept as submitted.

Councilor King believes it is not fair to the public to put forth documents written for them in language they can not understand. She refers to the words “*sine die*” in section 3.2. She feels that if she is struggling to understand what that word is after 4 years on the council other members in the community will also. She urges the council to put forth legislation so that people can read it.

Councilor Lavoie states that at the Ordinance Committee, where every bill is discussed, is the opportunity for the public, town officials and municipal councilors to attend and ask questions. Questions can also be asked and debated at the municipal council meetings. Since becoming a councilor he has not seen the seats filled with people complaining that they don’t understand the language. He feels that if people don’t understand the Latin contained in bill 2007-038 people can look it up.

Councilor Lindstrom does not believe the language is out of control and does not believe everything has to be written at a juvenile level. She feels rules have to be specific in order to be followed and written with a larger vocabulary.

Councilor McClure feels the public has an opportunity to come to a number of meetings and ask questions about any of the language. If the public wants to know they can get the answer.

Councilor Benson will not support 2007-038, he doesn’t believe it should take work to understand laws.

Councilor Iacobucci read 2007-038 into the record. He explains that “*sine die*” means the last adjournment of the legislative session.

President Lawrence states all items that come before the council are referred to committees and there is plenty of time for the public or other councilors to get additional information. He feels that if the councilors would attend committee meetings and workshops they would be informed.

Councilor King believes all the work and discussion should take place at the Municipal Council meetings in public and before the community.

Councilor Iacobucci moves the recommendation of the Ordinance Committee on 2007-038

Roll Call Vote – 7 Yes, 2 NO (King, Benson)

2007-041 An Ordinance that the Municipal Council Accept Art. 17, Sec. 9 – Cemeteries Ordinance – Mayor Kezer sponsor cont.

Councilor Lavoie states the recommendation of the Ordinance Committee was to discharge back to the Municipal Council with a recommendation that the Ordinance Committee supports passage of this bylaw pending the specific recommendations of the Cemetery Commissioner's and Mayor's Office.

Councilor Iacobucci moves to adopt with recommendations from the Mayor's Office including a couple of amendments.

9.2 – Cemetery Hours change time from 2PM to 3PM

9.4 – Include letter M which would state "Domesticated animals are prohibited except for those which provide assistance to and are accompanied by a physically impaired person."

9.7 – After The Director of the Department of Public Works and his designees are authorized as enforcing persons for this purpose. Include the words "Section 17.9.4M may also be enforced by the Animal Control Officer."

Councilor King asks for 2007-041 to be continued because the public did not know that dogs were going to be prohibited from the cemeteries. It would give people the opportunity to come and speak.

Councilor Iacobucci states 2007-041 came to the Ordinance Committee and no recommendations were made anticipating recommendations from the Mayor's office which was received in his packet. He was anticipating an amendment for animals because of a lengthy discussion about animals at the meeting however there wasn't one.

Councilor Lavoie reminds all the councilors they have the right to object to the vote under section 3.7.C of the Charter.

Councilor Lindstrom makes an amendment to "M" to read "unless they are on a leash"

Councilor McClure believes it is common knowledge that a cemetery is not a place for animals to run free and do their business. It is a place of reverence and reflection.

Councilor Pinierio believes dogs do not belong in the cemeteries; he feels it is disrespectful. He will be supporting the amendments.

Councilor Benson states his opinion on whether or not dogs belong in the cemetery is irrelevant right now. He does not believe the council is discussing this. He will object when it comes to a vote so people who are concerned about this issue can come and speak on it.

Councilor Thone supports the amendments including prohibiting dogs.

Councilor Iacobucci states the Mayor's office left this issue of animals up to the council. He took the wording suggested by the Cemetery Commission for letter "M" addressing domesticated animals. The Cemetery Commission would like to see 2007-041 passed before the summer season started and not be stalled too long. In response to Councilor Lindstrom's amendment he states it is already addressed in the bylaws. Any animal that is not on private property has to be on a leash already.

President Lawrence thanks Jane Snow for her work on the Cemetery Ordinance. In regards to the amendment prohibiting domesticated animals he believes people have been abusing the cemeteries and he will be supporting it.

Jane Snow states prohibiting dogs was in the original rules presented to the Mayor they did not try to hide it. It is the opinion of many different people including town employees and the undertakers. It is an on going problem of people letting their dogs off the leash to do their business. She states the Cemetery Commissions goal is to clean up the cemeteries and make them look respectful and clean. If someone comes to visit a grave and a dog is in the car and it gets loose no one will say a word, the whole idea is to stop the group of people who habitually let their dogs run free to do their business.

Councilor Lindstrom withdraws her amendment.

President Lawrence calls for a vote on the amendment to the motion.

Councilor Benson objects to the vote, Councilor King further objects to the vote.

Councilor Benson motions to adjourn, Voted – Unanimous

11:10PM

Respectfully submitted,

Assistant Town Clerk