

Municipal Council Special Meeting
Wednesday, July 19, 2006
Town Hall Auditorium 7:00PM

Pledge of Allegiance – Councilor Benson

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

Public Comment – no requests

President Lawrence states the council received the Inspector General's report investigating the Farfarad Baileys Pond RFP on Friday, July 15th for the council to respond. The history bringing the town to this point is; approximately on February 10, 2005 then Councilor Chandler brought a couple of items to the council for consideration. One was to send a letter to the IG to review the Farfarad Baileys Pond/Terresphere RFP and agreement with the town. President Lawrence reads into the record Councilor Jim Chandlers original letter to the IG (attached).

Councilor King states for the record that she was the councilor that voted against the resolution to review the Bailey Pond Project. She did not object to the request going to the IG's office only with some of the wording.

Councilor Thone reads the summary of the IG's report (the summary and whole report is attached).

Late Files – New Business

2006-077 An Ordinance to Provide for Improved Contracting Practices – Councilors Lawrence and Thone sponsor

2006-078 Resolution Regarding Inspector General's Report – Councilors Lawrence and Thone sponsor

2006-079 Ordinance to Rescind the Bailey's Pond Project – Councilors Lawrence and Thone sponsor

2006-080 Certificate of Appointment – Jessica Schoonmaker, Board of Health

Councilor Lindstrom moves to accept 2006-077, 2006-078, 2006-079 and 2006-080 as late files, Councilor Pinierio second

Councilor King asks for the Ordinances and Resolution be voted separate from the appointment.

Councilor Lindstrom amends her motion to accept 2006-077, 2006-078 and 2006-079 as a late file, Councilor Pinierio seconds.

Councilor Thone makes an amendment to Councilor Lindstrom's amended motion to accept all together as a late file. Councilor Brennick second – Voted – 6 Yes, 3 No (King, Lavoie, Benson) amendment is accepted.

Councilor Thone motions to accept 2006-077, 2006-078, 2006-079 and 2006-080 as late files. Councilor Pinierio second 7 Yes, 2 No (King, Benson)

Public Comment – IG's Report

Dana Hathaway, 9 Swetts Hill – Mr. Hathaway feels this project has become totally adversarial. Fafard is proposing plans so outrageous it's just incredulous and an embarrassment to the town. He is suggesting to the council, if it is possible; to reject the proposal and start the process again.

Barbara Hathaway, 9 Swetts Hill – Ms. Hathaway feels the purchase and sales agreement is a disgrace. She feels Amesbury should expect and receive better as far as their attorneys are concerned. Also, there are no dates on the P&S and she wants to know how long the town has to wait to say it is null and void, who holds the title to the parcels and why are there are no dates on the signatures. She does not feel the town should have to pay for a contamination study when they are giving to land away for free. What will it take to make the P&S null and void, is it still in effect?

Laurie Irwin, 6 Swetts Hill – Ms. Irwin wants to know if the Attorney who wrote the P&S is going to be the Attorney who will try to null and void the agreement? She would like to request a different attorney be selected. She says it was her understanding that in order to let Fafard develop Bailey's Pond they were to develop the truck stop. At her last meeting with Fafard she was told by them "we have no plans to develop the truck stop". Fafard is not trustworthy; they have been unfair and have a bad environmental track record.

Jim Chandler, 417 Main Street – President Lawrence thanks Mr. Chandler. Mr. Chandler's comments are attached.

Mike Greaney, 50 Orchard Street – Mr. Greaney felt from the beginning all monies collected by the town would go to help Fafard and not the taxpayers in the Town of Amesbury. He also feels there are other properties, Pond/High Street and the Henschels building that have been given away at the expense of the taxpayers. He hopes this council will vote this down and find a new lawyer that will work for the taxpayer's interest.

Annette Denetolis, 21 Orchard Street – Ms. Denetolis feels the Fafard deal is just another in a long list of bad business decisions made by the town. She thanks the citizens of Amesbury for getting involved and would like to know if there is any legal recourse toward the current legal counsel for approving this deal.

Marc Deschenes, Highland Street – Mr. Deschenes thanks all the people who got involved to ask questions and raise concerns about the Fafard deal. He believes the concerns of the Alliance are not the concerns of the Town of Amesbury. He would like to see the council and the Mayor step up to the plate together and get the contract null and void and moving forward with a responsible plan for that area of Amesbury.

Jerry Dionne, Huntington Ave. – Mr. Dionne does not have any faith in Kopelman & Paiges abilities.

Annette Denetolis, 21 Orchard Street – Ms. Denetolis would prefer to have a strip club and a truck stop to this kind of representation and deal being made on her behalf.

Kevin Murphy, Pleasant Valley Road – Mr. Murphy would like to see Amesbury get out of the development business and concentrate more on the services he is paying for as a taxpayer. When the town takes tax title property they should auction it off by the laws of the state and let private people develop it within the guidelines of the town.

Councilor King responding to Mr. Chandler's question; what would be the best road for the community at this point? She agrees it is a flawed document and had no issue with sending the resolution to the IG's office, only with some of the wording. She had asked for the wording to be changed, it was not agreed to and therefore did not vote in favor of it. Councilor King notes that the municipal council sent the request to the IG's office and the response came back to Mayor Kezer, it did not come back to the municipal council. She believes the council should give the Mayor the opportunity to do what the taxpayers voted him to do, give him the responsibility to step back and review the document to see what the town needs to do with it. Mayor Kezer is a certified procurement officer trained at the IG's Office. He was not involved with the community when all the agreements were drafted. She does not believe other members of the council took the opportunity to discuss this with the Mayor before deciding to investigate on their own. She believes this is the Mayor's responsibility and she asks President Lawrence to discuss this with the Mayor before over stepping its bounds. Councilor King does not believe the Mayor was invited to attend this meeting.

Jim Chandler responds to Councilor Kings comments stating that when he heard about the report he sent an e-mail to all councilors and to the Mayor. He would like to see a proactive response from the Mayor and Councilor King.

Councilor Thone thanks Mr. Chandler, the Hathaway's and the Irwin's for their participation. She states the study by the IG's office was a comprehensive and exhaustive study. She does not feel the all the citizens, the IG and the Department of Revenue are wrong. She believes it is the job of the council and the Mayor to be proactive and respond to the report. To date she has not seen a response from the Mayor. The two ordinances and the resolution that she hopes will be passed tonight will begin to address this issues in the best interest of the taxpayers.

Councilor McClure feels the legislative branch of government is just as important as the executive branch and she has not seen anyone in the executive branch look out for the taxpayers in years. She feels that if this council does not support looking out for the taxpayers she does not know who will do it. She does not trust that this issue will be taken care of therefore tonight the council will be taking action to do it. Councilor McClure brought the minutes from the meeting where Councilor King states she voted not to send the resolution to the IG's office quoting "I have some discomfort in the sentence we also request any advice to help us ensure that in fact Fafard Development will satisfactorily complete the RFP that was rewarded". She feels that was a very important sentence and does not understand Councilor King's discomfort. It appears that someone was watching out for Fafard.

President Lawrence echoes Councilor Thone and McClure's comments, he agrees with them whole heartedly. He feels the Mayor has been in office six months, ample time to look into this and not much has been going on. In his opinion, he says to Councilor King, "this council is going to be driving the bus on this one".

Councilor Pinierio feels that everything has been done wrong and requests that the Mayor not have anymore dealings with Kopleman & Paige and fire them.

Councilor King responds to Councilor McClure assuring her that she was not acting in the best interests of Mr. Fafard. Her discomfort in the wording was she did not feel it was the role of the council to ask advice on how to ensure that Farfard would comply.

President Lawrence reads 2006-080 into the record.

Councilor Benson moves for approval of 2006-080 as submitted, Councilor Thone second – Voted Unanimous

2006-077 An Ordinance to Provide for Improved Contracting Practices – Councilor Lawrence and Thone sponsor

Councilor Thone reads 2006-077 into the record.

Councilor Benson moves to refer 2006-077 to the Finance and Ordinance Committees and schedule a public hearing at the September council meeting, Councilor Thone second. Voted – Unanimous

2006-079 An Ordinance to Rescind the Bailey's Pond Project – Councilor Lawrence and Thone sponsor

President Lawrence reads 2006-079 into the record.

Councilor Thone motions to send 2006-079 to Ordinance and schedule a public hearing at the September 12th council meeting, Councilor Benson second. Voted Unanimous

Councilor Lavoie asks for a copy of the legal opinion referred to in the February 05 letter from Jim Chandler.

Councilor King asks who authored bill 2006-077 and 2006-079, President Lawrence responds that he was the author.

Recess

2006-078 Resolution Regarding Inspector General's Report – Councilor Lawrence and Thone sponsor

President Lawrence reads 2006-078 into the record.

Councilor Thone motions to accept 2006-078, Councilor Brennick second.

Councilor King asks who the author was of bill 2006-078, President Lawrence responds that he wrote the bill.

Councilor Benson notes that Councilor Lavoie submitted, before the beak, a list of amendments to this resolution and would appreciate discussing them.

Councilor Lavoie is in general favor of 2006-078 with the following proposed amendments:

1. Amend second "whereas" clause by deleting "state laws governing public contracting" and replacing it with the words "several statutory requirements of M.G.L. c. 30B".

2. The fifth 'whereas' clause to be revised after the words "prior involvement", to read as follows: "there may be the appearance that the law firm may not be able at this time to provide an impartial review of the matter; and"

3. Section 1, second sentence: insert the words “of the Municipal Council” after the words “three members”,
4. Section 2, first sentence: at the end of the sentence, change the term “Municipal Council Expenses” to be “Legal Expenses”.

Section 2 – In the second sentence after the words “outside legal counsel” add “(other than Kopelman and Paige PC)”.

Section 2 – The last sentence to be changed to read as follows: “Said outside legal counsel shall be appointed by the Mayor.”

5. Section 4, in the first sentence, beginning after the words “Municipal Council” add the words “hereby rescinds its own Liaison appointments and”
Councilor McClure responds that she resigned from being a liaison to the Amesbury Alliance in March of 2006.

6. Section 5 in the first sentence, second line, after the words “contracts to be issued only” add the words “by the Mayor or”

Councilor Lavoie, in summary would make a motion that we amend the resolution in the manner he has suggested, his point number 1,2,3 and 5 and with respect to his point number 4 just the parenthetical (other than Kopelman and Paige PC). Councilor Benson second.

Councilor Lindstrom asks Councilor Lavoie for clarification on the outside legal counsel being appointed by the Mayor. Councilor Lavoie explains that he did not include that part of the amendment in his motion however; he feels the Mayor is the chief elected official. The voters elected him to run the town and it should be his job to hire the outside counsel.

Councilor Benson withdraws his second due to the fact that Councilor Lavoie left out number 6 of his amendments.

Councilor Thone, in regards to the amendments, she is not in agreement with number 2. She is convinced Kopelman & Paige cannot provide an impartial review and should not be involved in the future. She draws attention of 11.10 of the council bylaws: “no town officer or board shall unless authorized by the municipal council employ, advise with or consult with any attorney or counselor at law other than town counsel with regard to any town business or the business of any of the department or the duties of any such officers or boards whenever any charge therefore is to be made to the town or is to be paid out of the funds of the town or out of any department thereof”. Councilor Thone states the council has the authority to go outside for legal counsel, if the Mayor chooses to he must come through the council. She also is not in agreement with amendment number 3, she believes the appointments should be up to the council president. Councilor Thone will accept Councilor Lavoie’s motion with the exception of amendment number 2 and 3.

Councilor King asks President Lawrence is he plans to put forth an order to appropriate \$20,000 when he is acting Mayor for two weeks. President Lawrence responds that this is not a matter admitting to delay and does not think appropriating \$20,000 in two weeks is necessary.

Councilor Thone, in regard to the appropriation refers to MGL Ch 44 sec 33.

Councilor Lavoie, as a point of information states, unless a councilor seeks to amend the main motion by adding the parenthetical in amendment 4 you will have stated something in the whereas clause but you won't have anything operative in the body of the resolution.

President Lawrence suggests adding that part of amendment 4 to the motion.

Councilor Brennick motions to amend the motion to change Section 2 that spelt out to refer to (other than Kopelman & Paige PC) and in Section 4 the municipal council hereby rescinds its own liaison appointment to the Alliance, Councilor Thone second – Voted 7 Yes, 2 No (King, Benson)

*Councilor Thone motions to accept 2006-078, Councilor Brennick second
President Lawrence calls for a vote of the amended main motion – 6 Yes, 3 No (Benson, Lavoie, King)*

Councilor Pinierio wants to find out who holds the title on the land around Bailey's Pond, President Lawrence responds that the ad hoc committee will look into that.

Councilor Lavoie asks President Lawrence if he has a time frame to select the ad hoc committee. President Lawrence responds within 7 days.

Councilor Benson moves to adjourn, Councilor Thone second. Voted - Unanimous

Respectfully submitted,
Assistant Town Clerk