

Municipal Council Minutes
Tuesday, September 11, 2007
7:30PM Town Hall Auditorium

Call to Order 7:40PM

Pledge of Allegiance – Councilor McClure
Moment of silence

Roll Call: Donna McClure, Mario Pinierio, Michelle Thone, Roger Benson, Thomas Iacobucci, Ann Connolly King, Alison Lindstrom, Christopher Lawrence
Robert Lavoie will be arriving late.

Act on Minutes – April 10, 2007, June 12, 2007, June 19, 2007, July 10, 2007, July 24, 2007
Councilor Benson motioned to accept 8 Yes, 1 not present (Lavoie)

Public Comment

James Thivierge, 106 Friend Street – Mr. Thivierge reviewed the 2004, 2005 and 2006 management reports and feels some of the issues raised have not been addressed.

Public Hearings

Licenses and Permits

2007-092 Common Victualler License – Amesbury House of Pizza (transfer of ownership)
Attorney Emmanuel V. Meimaris represented George Mavroforos who is interested in buying Amesbury House of Pizza. He states all necessary applications have been submitted to the Health Dept. and Building Dept. Everything will remain the same it will be basically a transfer of ownership.

*Councilor Iacobucci motions for approval pending approval by all the necessary departments.
Voted – 8 Yes*

Mayoral Appointments

2007-086 Appoint Karen Crago-Slater – Associate member Lakes & Waterways unexpired term to expire 6/30/2008

Ms. Crago-Slater, 100 Macy Street – Ms. Crago-Slater states she moved to Amesbury in Sept. 2004 and joined the Lake Gardner Improvement Association. She would like to increase her involvement and expand her focus beyond Lake Gardner to a broader perspective.

*Councilor Iacobucci moves for approval of 2007-086
Voted – 8 Yes*

2007-087 Appoint Barbara Gard – Conservation Commission term to expire 6/30/2010

Ms. Barbara Gard, 53 Cedar Street – Ms. Gard recently moved to Amesbury. She has a masters degree in Environmental Policy from Tufts University and in the past was a Wetlands Scientist. She would like to offer her services to the town to use her knowledge and experience.

*Councilor Pinierio motions to approve 2007-087
Voted – 8 Yes*

2007-090 Appoint Barbara Huntress-Rather Conservation Commission term to expire 6/30/2010
Ms. Huntress-Rather, 32 Birchmeadow - Ms. Huntress-Rather moved to Amesbury from Danvers after watching the town destroyed by unbridled development. She would like to see the many natural resources protected and preserved.

Councilor Iacobucci motions to move the appointment of Barbara Huntress-Rather to the Conservation Commission.

Voted – 8 Yes

Late File

2007-093 Reappointment – Chief Financial Officer term 10/12/07 – 9/30/10 Mayor Kezer sponsor

2007-095 Appoint Joseph Finn to the Historical Commission – term to expire 6/30/10

Councilor Benson motions to accept late files. Voted 8 – Yes

2007-095 Appoint Joseph Finn to the Historical Commission – term to expire 6/30/10

Councilor Iacobucci motions to approve 2007-095

Voted – 8 Yes

2007-093 Reappointment – Chief Financial Officer term 10/12/07 – 9/30/10 Mayor Kezer sponsor

Councilor Iacobucci motions to approve 2007-093 as submitted.

James Thivierge, 106 Friend Street – Mr. Thivierge asks President Lawrence to read the contract. He further suggests the contract be renegotiated to have the term to end 12/31/10 instead of 9/30/10. Because this is an election year either the incumbent or the successor will be able to appoint the CFO.

President Lawrence asks Town Clerk, Bonnijo Kitchin to get a copy of the contract for the council.

Councilor Iacobucci motions to approve 2007-093 as submitted.

Voted – 6 Yes, 2 No (McClure, Pinierio)

Reports by Officials, Boards and Commissions/Special Presentations

Councilor King thanks and recognizes Barbara Bode, Lee LeBlanc, Mount Vernon Group and Castagnia Construction for the great work they have done in getting the High School ready to open in September.

Councilor Lindstrom asks Councilor King if there will be another tour of the High School scheduled. Councilor King said she will ask the Committee and reminds everyone that a tour would have to be arranged with the construction company doing the work.

Councilor Pinierio asks about the water problem in the playing fields. Councilor King states it is not a long term problem it was because of the phase of construction.

Measures

Councilor Iacobucci motions to take 2007-078 out of order. Voted – 8 Yes

2007-078 Resolution to accept Chapter 43D of MGL – Mayor Kezer cont.

Joseph Fahey, Director Economic Development – Mr. Fahey states 43D is a provision provided by the State allowing communities to initiate an expedited the permitting process. For the town to adopt 43D they needed to have a project in mind. Over the past several years the Golden Triangle has been going through some rezoning in order to accommodate development. Although it has attracted many different kinds of deployment, access has been a problem. The town then applied for and received from the state a \$100,000 grant to hire the firm VHB to look at the Golden Triangle and see what exactly is available for development. After receiving the report and meeting with the landowners

it was decided to look at expediting permitting process, 43D. Mr. Fahey states we are now at a point where the town has a very good idea of what could happen in the golden triangle. It can be a mixed use that includes commercial, residential and office. The development could be around sixty to eighty million dollars by the time it is completely built out on the Amesbury part; there is still a section that is Salisbury and we have had some discussion with them about it. It would have to be supported by Amesbury, all the infrastructure would go to Amesbury and would necessitate negotiation with them on how that development would occur. They have been in touch with Amesbury and have changed their zoning several years ago to accommodate the same kind of development. All the pieces are there to pursue the development.

Nipun Jain, Town Planner – Mr. Jain gave a power point presentation, copy attached.

James Thivierge, 106 Friend Street – Mr. Thivierge believes there are a lot of red flags regarding the traffic and noise in the area of the golden triangle. It should not be rubber stamped the benefits and liabilities need to be looked at.

President Lawrence is in support of the project however; he is concerned about the traffic and asks Mr. Fahey to go over the recommendations for improving Route 110. Mr. Fahey states the most critical part of the study was the significant improvements that would have to be made to the roadway infrastructure in order to accommodate the development. It would definitely involve widening Elm Street and significant improvements to the intersection of Route 110 and Elm Street. The designs have been made to add a lane to Route 110. The developer would have to fund some of these improvements. All of the changes go through the planning board process and traffic studies will have to be presented to all the boards for permitting. The permit process is not being changed the information still has to be provided. Mass Highway will look at what they planned for Route 110 and would work with the developer for the additional changes that would need to be made and they would be funded by the developer.

Councilor Thone states traffic is always the biggest issue on mixed use development projects. She asks if there will be issues with Rocky Hill Road. Mr. Jain states the study looked at what improvements would be required to the section of Route 110 from Rocky Hill to the intersection of Route 110 and Elm Street and to Elm Street it self and Route 110. The study revealed there is only a certain capacity for these corridors; you can not just expand them endlessly. Any development would require improvements. The 43D program allows the town to coordinate better with the State agencies and to make sure it can be done in a timely manner.

Councilor Thone states she had a conversation with Mr. Jain about a piece of land locked property and asks for an update. Mr. Jain states there are two parcels of less than a half an acre that they are seeking to get signatures from those property owners. Since he did not get a response from those landowners he did not include them in the final application that went to the state.

Councilor Thone states it is very critical that the town gets a responsible developer. Mr. Fahey states the town is being proactive and will be able to say to a developer that we have a 43D and this is what we would like to see.

Councilor Lindstrom states the new transportation center is going to generate a lot more traffic on Elm Street and she did not see that traffic reflected in the study. Mr. Fahey believes in some cases you could argue that the center could reduce the amount of traffic because they will have one place to go

and pick up the bus and leave as opposed to individually driving over to Newburyport. When a project is proposed a traffic study will have to be done.

Councilor Pinierio asks if the traffic will have an impact on the Sparhawk School. Mr. Fahey states it would have to be taken into consideration.

Councilor Iacobucci states there are two sets of traffic numbers in the study. At the beginning there are a set of disturbing traffic numbers based on the worst case scenario development. Later in the study there is a set of numbers that are much more reasonable based on a more desirable development.

Councilor Benson thanked the Mayor, Joe Fahey and Nipun Jain for putting the 43D together he states it is great for economic development and is consistent with the master plan.

Councilor Thone asks Mr. Fahey to review the \$150,000 grant and where he expects to find the \$75,000 match. Mr. Fahey states the \$150,000 is through a grant with the state and will be used for a permitting coordinator. He would prefer it to be a three year contracted position as opposed to a consultant because it would be most cost effective. He estimates an additional approximate \$75,000 will be required to make the full package appealing to an individual. The first year he would have to come up with about \$7,500 and he is looking to use CDBG money. The next two years the burden would be on the individual to be aggressive and look for grants to fund the match. There are also fees attached to the 43D process that could be utilized.

Councilor Thone asks if there are any open space requirements. Mr. Fahey states the 43D establishes a time line for approving permits all other zoning stays in place.

Councilor Lindstrom states she is really excited about the project and sees it as a real proactive way to get some really fabulous development in the town.

President Lawrence closes the public hearing on 2007-078.

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

President Lawrence opened the public hearing and read 2007-058 into the record.

Councilor Iacobucci stated a resident approached him with the proposed amendment and he agreed to sponsor it.

Councilor Lavoie states a set back is so no structure can be built closer to a lot line than a certain number of feet and every district has its own set of criteria. There is an exception for open decks. If the set back is 15 feet you could put a deck 7.5 feet from the line. The theory being that an open deck is occasional use and not full time infringement of the privacy of your neighbor. The amendment would be just an incremental way of trying to get a variance to the normal 15 foot set back if you are going to have a structure. The Ordinance Committee found it contrary to the intent and purpose of the bylaw.

President Lawrence sees the amendment as a way to allow for a porch with a roof and pillars similar to the many that currently exist in town. Nipun Jain explains the Building Inspector was concerned because it may start as just a roof over a porch but then slowly you see screens and they become more permanent and then walls with no way to regulate it. Under the current zoning you would have to go before the ZBA to get a variance because you are expanding the structure.

Councilor McClure questions why the amendment is in front of the Municipal Council if there is already a process in place.

President Lawrence feels the homeowners are coming to the Municipal Council because they feel the ZBA and Planning Board has become too restrictive.

Councilor Iacobucci states this amendment does not affect him personally but feels if a resident steps up and wants to be able to have a screen porch they should have the opportunity.

President Lawrence closes the public hearing.

2007-075 An Order to establish an Affordable Housing and Expedited Permitting Stabilization Fund – Councilor Iacobucci cont.

President Lawrence opens the public hearing.

Councilor Iacobucci states the Ordinance Committee recommended approval with the following amendments:

Ordinance Committee recommends adoption and discharge to the Council of measure **2007-075** as follows:

An Order to establish a Smart Growth Housing and Expedited Permitting Stabilization Fund

Be it enacted by the Municipal Council assembled and by the authority of the same as follows:

The Town of Amesbury shall have a stabilization fund, as provided by M.G.L. c. 40, §5B “Stabilization funds; establishment” to be known as the Smart Growth Housing and Expedited Permitting Fund.

The purpose of the Fund will be to offset the impacts, additional costs and expenses of Low and Moderate Income Housing Projects applied for under Chapter 40B, 40R, or 40S, and projects applied for under Chapter 43D “Expedited Permitting”.

Monies from the Fund may be appropriated by the Municipal Council, with the Mayor’s approval, as provided by M.G.L. c. 40, §5B, to cover the impacts, unforeseen costs and expenses to Town administration, education, public safety, public works, comprehensive planning, and transportation [including but not limited to road and sidewalk repair] which are directly related to projects developed or proposed under M.G.L. Chapters 40B, 40R, 40S and 43D.

All payments received from the Commonwealth pursuant to M.G.L. Chapter 40R shall be appropriated into the Fund. If the amount of such payments in any fiscal year exceeds 10 percent of the amount raised in the preceding fiscal year by taxation of real estate and tangible personal property, the Town shall seek approval from the Director of Accounts of the Department of Revenue to appropriate those monies into the Fund, notwithstanding the limit established by M.G.L. c. 40, §5B.

The Municipal Council may, with the Mayor’s approval, as provided by M.G.L. c. 40, §5B, appropriate additional monies to the Fund, including but not limited to impact payments received from developers, federal, state or private grant monies, or monies from the General Fund.

UNANIMOUS

The Planning Board recommended approval as amended by the Ordinance Committee and further amended as follows:

Third paragraph to read after comprehensive planning insert: (including but not limited to: grant writing, matching funds for making applications for such grants, master planning, updating Subdivision Rules & Regulations, other regulatory policies, open space preservation, and professional consultation)

Councilor Iacobucci asks the Council to consider voting to take 2007-075 back from the Finance Committee to get it approved.

Councilor King supports 2007-075 however; she is concerned that the council puts forth ordinances that are not reviewed by legal counsel. She states she called all the other cities in Massachusetts and asked if legal counsel reviews their ordinances and Amesbury was the only community that did not have their ordinances reviewed. She asked Councilor Lavoie if there was money appropriated in the legal budget for legal counsel to review 2007-075.

Councilor Lavoie states he believes there is \$4,500 in the legal budget for the ordinance review. He sees it as an ad-hoc situation at this time unless someone puts forth a rule proposal saying how many and which ones get reviewed by counsel.

Councilor King states her concern is that it refers back to Mass State Law, she would appreciate it if everyone would consider forwarding this on for legal review.

President Lawrence closes the public hearing on 2007-075

2007-076 November 6, 2007 Ballot Question - \$1,500,000 Underride – Councilors McClure, Thone sponsor cont.

President Lawrence opens the public hearing on 2007-076.

James Thivierge, 106 Friend Street – Mr. Thivierge does not support 2007-076; he is not in favor of underrides. He feels in light of the special education costs it will destroy the school system. Instead he suggests they look at a bi-annual systematic underride that takes away some of the surpluses.

Steve Dunford, 27 Woodman Road – Mr. Dunford believes 2007-076 is a very bad idea. In the case of unforeseen emergencies the town will not have any funds available to properly handle them. He does not like the concept of ballot questions since going to a strong mayoral form of government. He believes the council should be making the decisions to lower the tax rate.

Claude Gonthier, 112 Kimball Road – Mr. Gonthier would like to hear the reasons for the underride from the sponsors.

Mayor Kezer states the underride will have a very profound impact on the community should it pass. He is publicly stating his opposition to putting 2007-076 on the ballot. He believes this will have a very significant impact on the town's ability to deliver municipal services. It will have serious impact on the budgets of School, Police, Fire and Public Works; already struggling to meet the demands based on the current levels of services. To cut by \$1,500,000 with no consideration by those who are making the decision as to what services should be cut in order to offset the revenue loss would be a very draconian approach to trying to manage the tax rate. The two main arguments he has heard for doing

this are that there is excess capacity in the taxes and therefore you don't need to have that money available. Secondly, the fact that Amesbury has the highest taxes in the county. He states both those arguments are false. The difference between the maximum allowed to collect in property taxes and what we actually collect in FY07 was just over \$1,000,000 which he believes is the basis of the override. When the budget was presented for FY08 there was only \$33,000 of new money to work with to run the entire operation of the city. On the School side after the consideration of special education cost increases there was \$144,000 to run everything to account for all the increases of those operations. He ended up using about \$700,000 of the million dollar levy. He states that number will fluctuate as the books close and as the new growth numbers get confirmed but the number will be much less than the million dollars that has been discussed, we don't have that excess capacity. He is working on ways to change that such as the retirement system and the health care costs. The argument that Amesbury has the highest taxes in the county is false. If you look at the tax rate yes it is the highest but, if you look at the assessed values of the homes, Amesbury is 15th in average assessed values of homes. What really impacts the taxpayers is the actual tax bill, what is actually being paid. In FY05 & FY06 in Essex County we were #7 in FY07 we are #9, we are not the highest taxed. He states one method of controlling taxes is a ballot question, the other method is the Mayor proposing the budget and the council deliberating and making decisions as to what cuts should be made. In doing so it allows the council to make decisions as to what services need to be funded and what other services they are willing to cut or cut back on in order to control costs. Over the last two year before he submits the budget to the council he requested numbers from each of the department heads as to what it takes to run their departments. In FY07 he cut 1.6 million dollars from the departments requests in order to come to the numbers he submitted to the council. In FY07 the council made large cuts but had to reinstate some of those cuts later in the year. In FY08 the Mayor cut 2.6 million from the department's requests and the council only cut \$54,000. He states if it is the intent of this council to make drastic cuts in order to lower taxes the way it should have been done is through the budget process. He feels the best mechanism for the voters at the ballot box for controlling costs and ensuring excellent municipal services is to make sure they vote for people on the council and in the Mayors office who are going to be responsible people and make tough choices. For those reasons he hopes the council does not put the override question on the ballot.

Councilor Iacobucci asks Mayor Kezer what he would do if he wanted to increase spending over the levy.

Mayor Kezer states a community would articulate the purpose for an override such as school projects; libraries etc. and are very specific what the money will be used for. The override is proposing to cut the bottom line but it is not saying what services will be lost.

President Lawrence reads 2007-076 into the record.

James Thivierge, 106 Friend Street – Mr. Thivierge believes the money can be found in the budget. He states you need to look at the transfers, free cash, overlay, overlay reserve, overlay surplus, bond anticipation notes and abatements.

Councilor Thone addresses Mayor Kezer's comment that it is not the tax bill it's the dollars that matter. She states Amesbury is \$1,000 over the median average tax bill in the state. Amesbury is a community of less than 17,000 people and the population has shrunk, not grown. Amesbury may have a city form of government but it is still a very small town. Whether Amesbury is ranked number one as the most highest taxed or number seven it is not something to be proud of out of 351

communities. The taxpayers have the right to referendum. The last council denied putting a referendum question on the ballot because they believed they knew what the taxpayers wanted only to find out 2 to 1 that they were wrong. It is not about controlling taxes it's about affordability of life in Amesbury. She tells Mr. Gonthier that is part of the reason why Councilor McClure and she sponsored this bill. She wants to give the taxpayers an opportunity to vote on this to decide. The number the sponsors came up with was adjusted by the Finance Committee. She states there is approximately \$500,000 in excess capacity in FY07 and according to the Mayors' financial forecast in FY08 the town will have 1.4 million and in FY09 it will increase 1.5 million into the tax levy. With the proposed override it will allow Amesbury to increase spending 2.4 million dollars plus fees, fines and state aid. She feels if that is not enough for Amesbury then the taxpayers will have an opportunity through an override to decide if they want to spend more and increase taxes.

Councilor McClure states by sponsoring the bill her intent is to give the taxpayers a chance in Amesbury. The average house is taxed \$4,800 that is a lot compared to the average income. She has spoken to a number of residents who have shared their disbelief in the cost of the recent water bills that have gone through the roof. The recent tax bills, the school fees to get your children on a bus to play a sport or join the student council, they are tired and up to their eyeballs in taxes. Her intent is to stop the spending frenzy or to at least slow it. It will not stop spending; it is one million on a fifty million dollar budget. She does not believe there are any draconian measures being taken just an opportunity to give the taxpayers a little bit of a break.

Claude Gonthier, Kimball Road – Mr. Gonthier wants it to be clear that if this passes it will not lower taxes it will just reduce the potential for an increase the following year, is that correct?

Councilor McClure states there will be a huge campaign on both sides of this issue but she still believes every person that lives here and pays the fees and taxes has a right to decide. Mr. Gonthier asks to decide what? To take away the potential to spend up to a limit that we are not now spending to, is that correct? Councilor McClure says that's correct. Mr. Gonthier wants everyone to understand that if they vote this and it succeeds their taxes are not going to be lowered it will just take away the possibility of the town to spend up to their levy limit.

Councilor McClure hopes this will bring the unions to the table to negotiate the health care increases and make people realize the town is at their limit.

Mr. Gonthier states he knows the biggest budget item is labor and the council has no control of contracts. He suggests an alternative to an override would be to pass legislation to make sure the city council would have the right of ratification of all employment contracts. It would be a check and balance. He would also like to see the town change their budgeting process. He would like to see a Part 3 for maintenance and depreciation of the infrastructure. Every department would figure out what their depreciation expense is and it would go into an interest bearing account.

Councilor Lavoie states that while prop 2 ½ has a mechanism to allow overrides only 9 question in 10 years out of 351 cities and towns have been put on the ballot. He feels it is a pretty good indication to the general population that it is not a very good idea. He is opposed to it and believes to fund the level of services we have now there would eventually have to be an override. The council has the right to exercise where to cut the budget, where to give the taxpayers a break. The council either has the courage to make the cuts or they don't have the courage. The council should not hide behind trying to foist this decision off to somebody else. The override will have no impact on the tax bills.

President Lawrence closes the hearing on 2007-076.

2007-077 Amend Zoning Bylaw Section VI.B – Table of Dimensions & Density – Councilor Lindstrom cont.

President Lawrence opens the public hearing.

Councilor Lindstrom states Nick Cracknell approached her about this amendment. It will only affect property in PUD bordering residential. The Planning Board and Ordinance Committee both voted unanimously in favor for 2007-077.

Nick Cracknell states the primary purpose of the amendment is to be able to take the permitted land uses and be able to subdivide the lot.

President Lawrence closes the public hearing

2007-079 November 6, 2007 Ballot Question – Establish a Tourism Promotion Fund – Councilor Lawrence cont.

President Lawrence opens the public hearing.

President Lawrence explains the bill was voted by the council several months back 7 Yes, 1 No (King) and was vetoed by the Mayor and further over ruled by the council.

James Thivierge, 106 Friend Street – Mr. Thivierge agrees with a tourism bill but not at \$80,000 he suggests \$10,000. He does not believe tourism will be big in Amesbury unless the word gets out.

Councilor Lindstrom moves to suspend the rule to accept new business – Voted Unanimous

Steve Dunford, 27 Woodman Rd. – Mr. Dunford believes ballot questions are a bad idea.

President Lawrence closes the public hearing.

**Second Readings
Measures**

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

Councilor Lindstrom motions to not adopt.

Voted – 5 Yes, 4 No - Motion Fails

2007-075 An Order to establish an Affordable Housing and Expedited Permitting Stabilization Fund – Councilor Iacobucci cont.

Councilor King motions to refer 2007-075 to Town Counsel for review and continue it to the October meeting.

Councilor Iacobucci amends the motion to include the recommendations of the Ordinance Committee and Planning Board for review by Town Counsel.

Councilor Lavoie moves to retrieve 2007-075 back from the Finance Committee – Voted Unanimous

Councilor Iacobucci states the purpose was to have something in place for the money from the 40R. He would like it to be on the agenda for Sept. 25th.

Councilor Iacobucci withdraws his amendment

Councilor Lavoie moves to amend Councilor King's motion to refer to Town Counsel 2007-075 with the recommendations from the Ordinance Committee and Planning Board. The opinion to be rendered no later than 5:00PM September 24th.

Councilor McClure is concerned the council will start sending everything to town counsel. The town does not have the money or time for most of these issues. She states there are two attorney's on the Ordinance Committee.

Councilor King asks Councilor Lavoie and Mr. Graham if they are prepared to take on the responsibility as attorneys in rendering their opinions. She feels it would be great if they wanted to do that but, if not someone needs to do it.

*Councilor Lavoie moves to amend Councilor King's motion to refer to Town Counsel 2007-075 with the recommendations from the Ordinance Committee and Planning Board. The opinion to be rendered no later than 5:00PM September 24th - Voted 6 Yes, 3 No (Thone, Lawrence, McClure)
Amendment becomes the main motion
Roll Call Vote – 5 Yes, 4 No (McClure, Thone, Iacobucci, Lawrence)*

2007-076. November 6, 2007 Ballot Question - \$1,500,000 Underride – Councilors McClure, Thone sponsor cont.

Councilor McClure read the recommendation from the Finance Committee to reduce the underride to \$1,000,000.

Councilor McClure moves the recommendation of the Finance Committee

Councilor Lavoie read the recommendation of the Ordinance Committee - "As the form of the enactment appears to be in proper form under the applicable statute, this bill is discharged back to the council with the recommendation that the council act on the measure as it deems appropriate upon due consideration but with the additional recommendation that the bill be amended to add "YES" and "NO" check boxes:

*Councilor King invokes section 3.7c of the City Charter and object to the vote.
Councilor Benson second.*

President Lawrence does not believe you can use the objection when putting a question out to the voters of Amesbury. Councilor King states it is a measure and can be objected to. Councilor Lavoie feels quite certain that it is a measure and believes the charter is crystal clear 3-7C.

Councilor Iacobucci makes a notation that Councilor King's objection is out of order due to the fact that there has not been any debate or discussion among the councilors and the time to object is at

the time of the vote. He asks for a ruling of the chair. President Lawrence rules there will be time for discussion.

Councilor Lavoie is personally opposed to the override, he thinks the council has the opportunity every year to make cuts as they see fit. He thinks an override is an inappropriate way to carry out their responsibilities and does not think it is appropriate to reduce the levy. Everybody has the same goal to provide the best level of services at a level of taxation that is appropriate for the town.

Councilor Iacobucci believes in giving the people the choice to vote on matters. He will vote to support giving the people the right to vote on this. He would also vote to put an override question to the people as well. In the end he states it is their money and community the council represents the people and they have to listen to them. In reading the council rules and the definition of a measure he does not believe 2007-076 falls under that definition. He asks the Council President to give a ruling or pursuant to the council rules he will propose a waiving of the rules under council rule 5C – Definition of a measure. If it does fall under measure it would require a two thirds vote of the council to waive that definition under the rules. He does not agree with the concept to object and counter object so the Town Clerk doesn't have enough time to get it on the ballot.

Councilor King states President Lawrence already determined 2007-076 a measure when he approved the agenda.

Councilor Lindstrom states she wants to follow the charter. She read section 8-2 d and 8-3 and says it refers to much of the ballot questions as measures. The recall was called a measure.

President Lawrence rules it will be called a measure.

*Councilor McClure moves the recommendation of the Finance Committee
Councilor King invokes section 3.7c of the City Charter and object to the vote.
Councilor Benson second.*

2007-077 Amend Zoning Bylaw Section VI.B – Table of Dimensions & Density – Councilor Lindstrom cont.

Councilor Lavoie read the recommendation of the Ordinance Committee to adopt as follows:
Be it ordained by the Municipal Council assembled and by the authority of the same that the Zoning Bylaw section VI.B shall be amended as follows:

The following text shall be added to footnote #2 in the Table of Dimensional and Density Regulations (Section VI.B.)

“For a single-use, multi-family development that contains only two family structures on a lot at least a portion of is within 80 feet of an R-8 District, the lot area shall be a minimum of 12,000 SF and shall have a minimum of 80 feet of frontage. The minimum front yard setback shall be 15 feet, side yard setback 10 feet, and rear yard setback 25 feet. All other dimensional regulations listed in the Table of Dimensional and Density Regulations shall apply.”

Councilor Lavoie also stated that the Planning Board also recommended adoption as amended by the Ordinance Committee.

Councilor Iacobucci motioned to move the recommendation of the Ordinance Committee and the Planning Board. Roll Call Vote – 8 Yes, 1 No (McClure)

2007-078 Resolution to accept Chapter 43D of MGL – Mayor Kezer cont.

Councilor Lavoie read the recommendation of the Ordinance Committee to adopt as amended:

Section 1: Town of Amesbury will make a good faith effort to comply with the requirements of MGL c.43D of the Massachusetts General Laws as amended pursuant to Section 11 of Chapter 205 of the acts of 2006; and

Section 2: The Town of Amesbury does hereby designate the following properties within the “Golden Triangle” as a Priority Development Site:

ASSESSORS MAP	LOT	ADDRESS
69	1	293 Elm St rear
68	12	265 Elm St rear
68	13	277 Elm St
68	14	283 Elm St
68	15	287 Elm St
68	20	281 Elm St
80	3	287 Elm St
80	4	287.5 Elm St
80	6	289 Elm St rear
80	7	289 Elm St
80	8	291 Elm St
80	9	293 Elm St RR
80	10	293 Elm St
80	11	295 Elm St
80	12	297 Elm Street

Said designation as a Priority Development Site (PDS) will be contingent on all applicable land owners written acceptance of said designation; and

Section 3: The Mayor’s actions in filing the application to the Interagency Permitting Board (IPB) under 400 CMR 2.00 Expedited Permitting for a Technical Assistance Grant in the amount of \$150,000 is hereby ratified, confirmed and endorsed.

Section 4: The actions of the officers of the Municipal Council in signing Part I of said Grant on behalf of the Amesbury Municipal Council as the Governing Body under said 400 CMR 2.00 Expedited Permitting are hereby ratified, confirmed and endorsed.

Section 5: Said designation and grant, if approved by the IPB, shall be submitted to the Municipal Council for final approval and acceptance before any check for a technical assistance grant is endorsed on behalf of the Town of Amesbury.

Section 6: Based on the foregoing, the Town of Amesbury hereby adopts the provisions of Chapter 43D of the Massachusetts General Laws as amended pursuant to Section 11 of Chapter 205 of the Acts of 2006, subject to the following conditions:

- 1) An actual award being made to Town of Amesbury of the \$150,000 Technical Assistance Grant (TAG);
- 2) The actual designation by the IPB of the properties identified in Section 2 as a Designated Priority Site (PDS)

Councilor McClure read the recommendation of the Finance Committee to adopt.

Councilor Lavoie moves that the council adopt 2007-078 as recommended by the Ordinance Committee.

Roll Call Vote - Unanimous

2007-079 November 6, 2007 Ballot Question – Establish a Tourism Promotion Fund – Councilor Lawrence cont.

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

As the form of the enactment appears to be in proper form under the applicable charter sections, this bill is discharged back to the council; with the recommendation that the council act on the measure as it deems appropriate upon due consideration; but with the additional recommendation that Section 3 of the proposed ordinance 2007-079 be amended so that Sections 1,2,3, and 4 be deleted and that Sections 1,2,3,4, and 5 from 2006-009 as finally adopted by the Council on May 30, 2006 be inserted in substitution thereof and that in Section 6 the word June is deleted and replaced by the word July.

Councilor McClure read the Finance Committee recommendation as follows:

Councilor Thone recommended the Municipal Council not adopt as written. They should review the level of funding outlined in the bill; \$80,000.00 is too high. The Finance Committee sees no flexibility or oversight and they should also look at the issue of check and balances as the bill is deficient in that aspect.

Councilor McClure state the Finance Committee had the original wording of \$80,000 and the correction has been made by the Ordinance Committee.

Councilor Iacobucci moves adoption of 2007-079 as proposed by the Ordinance Committee.

Councilor Lindstrom amends the motion to change the 30% to 15%.

Vote on amendment – 1 Yes, 7 No (McClure, Pinierio, Thone, Benson, Iacobucci, Lavoie, Lawrence), 1 Abstain (King) – Amendment fails

Councilor Iacobucci moves adoption of 2007-079 as proposed by the Ordinance Committee.

Roll Call Vote - 8 Yes, 1 No (King)

Motion passes

First Readings

Councilor Iacobucci referred to the Finance Committee the following:

2007-080 Request the Municipal Council vote to accept an \$8,000.00 donation from the American Academy of Dermatology – Mayor Kezer sponsor

- 2007-082** An Order to vote to appropriate \$390,264.00 for FY08 Whittier Regional Vocational budget – Mayor Kezer
2007-084 An Order to accept \$49,875.00 Community Policing Grant – Mayor Kezer
2007-085 An Order to approve payment of a prior fiscal year invoice from current fiscal year appropriations – Mayor Kezer sponsor
2007-088 An Order to appropriate \$1,000,000.00 for Capital Expenditures – Mayor Kezer sponsor
Voted – Unanimous

Councilor Iacobucci moved the following be referred to the council's regular meeting on Tuesday, September 25th:

- 2007-081** An Order to approve the transfer of assets of the Amesbury Municipal Retirement Board to the P.R.I.M. Board per Chapter 68, sec 4, of the Acts of 2007 – Mayor Kezer sponsor
2007-083 November 6, 2007 Ballot Question - Nonbinding referendum question submitted by the Amesbury Public Library Board of Trustees – Mayor Kezer
Voted Unanimous

*Councilor Lavoie motions to forward **2007-089** An Order to Revise Amesbury's Zoning Bylaw Sections VI, XI.O and XIV Mayor Kezer sponsor to the Planning Board and Ordinance Committee
*Voted Unanimous**

*Councilor Iacobucci clarifies his motion that he refers **2007-081** and **2007-083** to the Council's September 25th meeting bypassing referral to committees and act on these as public hearings and second readings.
*Voted Unanimous**

*Councilor Benson schedules a public hearing for **2007-088** An Order to appropriate \$1,000,000.00 for Capital Expenditures – Mayor Kezer sponsor for the October 9, 2007 council meeting.
*Voted Unanimous**

Correspondence

2007-091 Automobile Reimbursement Rate – Mayor Kezer
President Lawrence reads 2007-091 into the record

2007-094 November 6, 2007 Municipal Preliminary Election Warrant
President Lawrence reads 2007-094 into the record

Councilor Lavoie corrects the agenda item; it should read September 18, 2007

Councilor Lavoie motions the September 18, 2007 Municipal Preliminary Election Warrant be adopted as presented
Voted – Unanimous

Meeting adjourned
11:45PM
Respectfully submitted
Assistant Town Clerk