

Municipal Council Minutes  
Monday, October 2, 2007  
Town Hall Auditorium  
7:00 p.m.

President Lawrence called to the meeting to order at 7:00 pm

Councilor Pinierio led the Pledge of Allegiance.

Roll Call: Mario Pinierio, Roger S. Benson, Thomas Iacobucci, Ann Connolly King, Robert Lavoie, Alison Lindstrom, Donna McClure, Christopher Lawrence. Councilor Thone was absent.

**Councilor McClure made the motion: The Town Clerk is ordered to place the measure 2007-076 on the November 6, 2007 as the Mayor does not have the authority to veto a measure submitted pursuant to Part 8 Citizen Participation Mechanisms, specifically 8-6 Submission of Proposed Measures to Voters of the Amesbury 1996 Home Rule Charter. The Municipal Council President is hereby authorized to employ such staff and retain such assistance as is necessary to conduct the business of the Municipal Council and to take such steps as are necessary to implement the Council's vote that the ballot question 2007-076 appears on a ballot.**

Councilor King asked for clarification on the motion.

Councilor McClure stated since a vote was taken and the Mayor does not have the right to veto such a vote that the Council instruct the Town Clerk to place the question on the ballot.

Councilor King stated she assumes this is Councilor McClure's interpretation of 8-6. She stated she disagreed and asked why Councilor McClure's perception should rule.

Councilor McClure stated she didn't believe it was her perception but she was not about to set a precedent that the Mayor can override a ballot question which is really subject to the people.

Councilor King read section 8-6 on page 21, "Submission of Proposed Measures to Voters". She stated she wanted to be very clear in listening to what the wording is. She stressed the word measure in reading the section. She then read section 2-8 on page 4, "Approval of Veto by the Mayor" which states every measure relative to the affairs of the town adopted by the municipal council except four exceptions. She stated it is very clear that the Mayor, according to section 2-8 has the right to veto any measure. She stated there was no question in her mind that the Mayor has the right to veto this. She stated respectfully, they could have a difference of agreement but she would hate to see the council pull them down a road because they're looking at material that is under what is clearly delineated as a measure and skewing and interpreting for how they choose to see it. She asked the council to reconsider.

Councilor Benson stated he couldn't believe they were doing this. He stated they were turning yet another argument into a game of chess and he thinks the people are tired of it. He stated if the council disagrees with it then override the veto.

Councilor Iacobucci stated he wanted to thank Councilor King for highlighting and reading the two sections of the charter especially her stressing the phrase section 6 “Submission of proposed measure to the voters”. He stated the Mayor can only veto a measure after it has been adopted and the Mayor cannot veto something that is proposed to go to the voters because as Councilor King pointed out submission of proposed measure to the voters. The Council has proposed to submit something to the voters and therefore, then the Mayor cannot veto something that is proposed. He can only veto a measure after it has been adopted. He stated he wanted to remind everyone and thank Councilor King for pointing that out. He stated if you read section 8-6 as Councilor McClure pointed out citizen’s participation mechanisms the section of the charter that gives citizens the right to participate and included within that is section 8-6 which gives the council the authority to submit or propose measures to the voters.

Councilor Lavoie stated that looking at the end of the paragraph in section 8-6, that the council can place things on the ballot in the same manner and with the same force and effect as are hereby provided on submission on petition. It doesn’t say initiative petition, he looked back to free petition. He stated clearly the six member majority wants this on the ballot; they have the opportunity to make sure it goes on the ballot by overriding the Mayor’s veto. He stated if the ruling was that the veto was ineffective then he wonders why the meeting has been called to act on the veto instead of alleged veto. He stated all he sees this doing is trying to push a town difference of opinion, a town controversy, back into the court house which he thinks is the last place it belongs. He stated he didn’t think there are too many people who like to have the Town of Amesbury in court except a few individuals. He stated when the debate closes he would like the opportunity to make a motion to amend the motion on the floor to pass section 2007-076 once again.

Councilor Lindstrom asked Councilor Lavoie if his understanding of the Charter Section 8-1 means that the Mayor can veto a free petition of the people.

Councilor Lavoie stated a free petition brings a matter before the school committee or the council and then the Council decides what to do with it and once the Council does something with it it’s a measure like any other measure. A citizen initiative petition is just that; twenty percent of the voters sign a petition saying they want to have this override on the ballot. They have every right to do so. There is no stopping them, the Council and Mayor can’t stop them but what is before the Council is a bill, a bill that the Council passed once to put the proposition on the ballot. He said six of the council said let’s do it. He reads in Article 2 on the Mayor’s veto to say what a measure is and what’s not and until a court tells the council that this isn’t a measure then they will never know for sure. If the goal of the six person majority of this Council is to make sure the voters have the opportunity to vote on the override question then they have a simple mechanism before them which is basically to repass the article. He stated he noticed Councilor Thone is not at the meeting and he stated he is so much interested in avoiding Amesbury being in the court house once again that he would vote in favor of overriding the veto just to get it on the ballot because if everybody wants that to happen he wants to do it the easy way. He said he’s getting sick and tired of everybody wanting to do things the hard way.

Councilor Lindstrom stated she agrees with Councilor Lavoie but she doesn’t see this as the hard way because her interpretation of what the Charter says is that the Councilors who bring a measure before the Council to put inside a ballot question; it’s a ballot question the council voted on. She said they didn’t vote on a measure; they didn’t say they passed the override, they said they passed the ability of the people to speak to the override through the ballot initiative. She stated she

doesn't think the Mayor has that capability to veto a ballot question and that's how she read it in the Ordinance Committee and the committee didn't say that the policy of the override itself was necessarily a good policy but that wasn't their decision to make. Their decision to make was that it was written properly, it was a legal ballot question and the Council should move forward with it. She believes it is the right of the people to speak and they rarely get to speak as one, as a group, as a whole and she hates to take that away from the people. She thinks that is their way to speak to their elected officials in a formal, actual, binding way and she has faith that the people will do the right thing. She thinks they will weigh what is there which her discretion to say; her discretion is to put it on the ballot and set a date if there isn't an election.

Councilor Pinierio stated he is just going to vote in favor of the override.

President Lawrence thanked Councilor McClure for her motion. He stated in that regard he called this meeting and he is not acting on the veto because he is not recognizing the veto as being valid. He does not feel the Mayor has the legal authority to veto this. He stated all they are asking is to put a question on the ballot. It has been done before and he does not want to set a precedent this evening of allowing the Mayor to veto all actions of the Council. There is a motion on the floor.

**Councilor Lavoie moved the following amendment; that the Council, without recognizing the validity of the purported veto, repass measure 2007-076.**

Councilor Benson stated he would not support this amendment either. He thinks they are going further into the game of chess with this one and he thinks they just need to end this and vote to either override or not to override. He stated the waters are getting muddied once again and he cannot see the logic of it.

Councilor King stated she agreed with Councilor Benson that they are here to vote on the Mayor's veto and she believes they need to do what they are here for. She stated she needed to address Councilor Iacobucci and the hair splitting between proposed measure and measure. She asked the citizenry to read the Charter in particular the two sections and see it for what it is. She agreed with Councilor Lavoie that they need to stop going down this road. The community deserves better than this and she would ask they do the job they came here for to either sustain or override the Mayor's veto.

Councilor Iacobucci asked Councilor Lavoie to repeat his motion and stated that voting it tonight and letting the Town Clerk go forward and submit to get the ballots printed does make sense avoiding a legal action. He thinks the motion would do that and he agreed it was a purported veto, looking at section 8-6 and its entirety of petitions and if they establish a precedent where a mayor can veto a petition, he can veto a free petition, an initiative petition, a referendum petition or a recall petition. He stated imagine if we had a mayor in the spring who wasn't pushing for a recall or a major force behind it but instead was actually opposed to it. He questioned if could he have vetoed and blocked it? He questioned if that was the precedent that the council would establish for this community. He doesn't think that's where they want to go because again the measure outlined in section 8 citizen's participation in section 8-6 gives the council the authority to submit questions to the voters in the same manner as if it had come in by petition. He stated he would support Councilor Lavoie's amendment if it is based on the fact that is phrased as purported and give it a chance to allow it to go on the ballot because they have established a very dangerous precedent with a Mayor who is vetoing something is overtaking the legislative authority that he doesn't have.

Councilor Lindstrom stated she liked the amendment.

Councilor McClure stated she thinks the water is muddy for those who will not see this is just a ballot question. This is not passing an override; it is simply the ballot question. It is a question to the people who pay the bills in this town, simple. She stated the Council moved in favor of it and she thinks they need to move on.

**Roll Call on the Amendment: 6 - Yes, 2 – No; Pinierio - Yes, Benson - No, Iacobucci - Yes, King - No, Lavoie - Yes, Lindstrom - Yes, McClure - Yes, Lawrence -Yes**

President Lawrence asked for the main motion which becomes the amendment to be repeated.

**Councilor Lavoie moved that the Council without recognizing the validity of the purported veto of the Mayor repass bill number 2007-076.**

**Roll Call: 6 - Yes, 2 – No; Pinierio - Yes, Benson - No, Iacobucci - Yes, King - No, Lavoie - Yes, Lindstrom - Yes, McClure - Yes, Lawrence –Yes**

President Lawrence stated the motion carries and requested a motion to adjourn.

Councilor Benson so moved.

Meeting adjourned at 7:25 p.m.

Respectfully submitted,

Bonnijo Kitchin  
Town Clerk