

Municipal Council Meeting Minutes
Tuesday, October 10, 2006
7:00 PM Town Hall Auditorium

Call to Order 7:10PM

Pledge of Allegiance – Councilor Lavoie

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

Accept Minutes: June 17, 2006 Councilor Benson motioned to accept, Councilor Pinierio second – Voted Unanimous

2006-098 Joint Meeting with School Committee to fill vacancy

Mayor Kezer calls the School Committee to order.

Roll Call: Paula Blair, Gail Hanshaw, Deb Comick, Deb Bibeau, Stan Schwartz

Deb Bibeau nominates Bonnie Scholtz, Councilor Benson second

Deb Comick nominates Barbara Coutinho, Deb Bibeau second

Councilor Lavoie nominates James Thieverge, Councilor King second

Bonnie Schultz has been active in the PTA and is currently President of the Parent Advisory Group for AMS. In the past she has been on several committees including: Amesbury Middle School Site Plan, Amesbury Public Schools Superintendent Search, and Amesbury Middle School Principal Search. She developed the Amesbury Walk for Literacy Program and helped organize the Amesbury Father/Daughter Dance. She would gladly accept an appointment to the Amesbury's School Committee.

James Thieverge feels he can bring to the School Committee the ability to participate in negotiations, school policy, athletics and school building projects. He has been actively involved in schools at the county, federal, state and local levels. He has filed bills on behalf of schools. He thanks everyone for the nomination and looks forward to serving on the school committee.

Barbara Coutinho recently retired as a Guidance Councilor and Director for the Triton public schools. She has been looking for an opportunity to volunteer and feels she can offer her expertise from her total professional career being devoted to teaching and education in order to help the community of Amesbury. She would be proud to serve and she has the time to give to the community and its students.

Voted: Bonnie Schultz 9, Barbara Coutinho 5, Thieverge 1

Bonnie Schultz is nominated

Deb Bibeau motions to adjourn

Public Comment

Gerard Dionne, 8 Huntington Ave. – Mr. Dionne questions whether or not the repairs to the Police Station are an emergency.

Ann Iacobucci, 5 Hillside Ave. – Mrs. Iacobucci is filing a complaint regarding the parking spaces that were taken away between town hall and the police station and the installation of locked gates. She is hoping it will be changed back to the way it was making it available to the Amesbury citizens again.

High School Building Update

Councilor King answers Councilor Brennick's question as to when the \$2,000 a day in liquidated damages will end. She states it will continue until the town sits down with Hartford Insurance and goes through the whole negotiation period. The Clerk of the Works is keeping a meticulous record of any expenses that have been incurred due to Alexandria not holding up his end of the bargain. Hartford has hired a consultant group called Trainor based in Florida. They have been going through out the building noting work that has been done and work that needs to be completed. It has taken 2 to 3 weeks to complete and the tapes are being transcribed now. The Hartford brought in contractors to get the boiler up and running before the cold weather sets in. The fire alarms will also be running. The town has heard from general contractors who have voiced interest in bidding for the project.

Councilor Lindstrom asks what would constitute damages. Councilor King responds the funds that are paid to the architect, the clerk of work and any financial inconvenience the Middle or High Schools have suffered.

Councilor McClure asks if the Hartford is solely responsible to select the next contractor, Councilor Kings states yes.

Councilor Brennick states there is about \$10,000,000 left to finish the project, what if the cost to finish is higher? Councilor King replies, Hartford is responsible.

Councilor Pinierio responds to Mrs. Iacobucci's complaint. He states he was told it was for homeland security, the perimeter of the police station had to be secured.

Licensing and Permits

2006-082 Pole Hearing National Grid – R Street cont.

President Lawrence read 2006-082 into the record and read a memo from the Town Engineer stating that National Grid has addressed all of his concerns raised at the last meeting.

Councilor Brennick motions to pass 2006-082 as presented by National Grid, Councilor Benson second. Voted – Unanimous

2006-102 Pole Hearing – Verizon – Newton Road

President Lawrence read 2006-102 into the record.

Kathy Fraiser, a representative from Verizon, states they need to relocate a pole because the intersection has been reconfigured by the town.

Councilor Lavoie motions to accept 2006-102, Councilor Benson second – Voted - Unanimous

2006-103 Pole Hearing – Verizon – Madison Street

President Lawrence read 2006-103 into the record and read a memo from the town engineer who states he has no concerns with the placement of the two new poles.

Kathy Fraiser states the new poles are needed to service two new homes.

Councilor Lavoie moves approval of 2006-103 as presented, Councilor Pinierio second – Voted Unanimous

Mayoral Appointments

2006-104 Jonathan Sherwood, Scott Jordan Charter Review Commission
President Lawrence read 2006-104 into the record.

Scott Jordan, 38 Whittier Street felt it is time to contribute to the community so he is volunteering his time on the Charter Commission.

Jonathan Sherwood, 39 Whittier Street, he is very interested in town government and feels it is his civic responsibility to get engaged with the affairs of the town.

Councilor Pinierio motions to nominate Jonathan Sherwood and Scott Jordan for the Charter Review Commission, Councilor McClure second. Voted – Unanimous

2006-107 Appoint Michelle Butler – Health Care Trust Commission – Term to expire 6/30/08
President Lawrence read 2006-107 into the record.

Michelle Butler, 107 Friend Street states she was encouraged by other members of the Health Care Trust to apply for the vacant position to assist them in interpreting billing and financial documents that go before them.

Councilor Pinierio motions to appoint Michelle Butler to the Health Care Trust, Councilor Benson second. Voted – Unanimous

President Lawrence calls for a motion to accept late files.

2006-111A A Preamble

2006-111B An Emergency Order to vote to appropriate \$80,000 from Free Cash for the emergency repairs to the Police Station

Councilor Benson motions to accept 2006-111A & 2006-111B as late files, Councilor Brennick second Voted – Unanimous

Councilor Thone motions to take 2006-086 which was discharged from Finance Committee 10/10/06 out of order, Councilor Brennick second – Voted Unanimous

Public Hearing

2006-086 An Order to appropriate \$500,000 for the Water Treatment Plant Improvement Plan – Mayor Kezer sponsor

President Lawrence reads 2006-086 into the record.

Councilor Brennick read the recommendation of the Finance Committee to recommend voting to appropriate \$500,000 for the Water Treatment Plant Improvement Plan.

Brian Gilbert, Director of DPW gave an overview of the Plan. The current treatment process will not meet the new Federal Guidelines for Water Quality. He has found two treatment processes that would meet the new guidelines and could be retro fitted within the existing building. Under DEP guidelines

they must be tested to find out if they will work for the water in Amesbury. The pilots have to be done during the two extremes in water temperatures summer and winter. This needs to be started in order set us in place for funding for the SRF program so we can move forward with the design process and construction.

Mike Basque addressing the financing states the \$500,000 will be about \$22,000 a year in interest or about .04 cents on the tax rate with annual impact of approx. \$2.40 per household beginning in FY07 at the earliest.

Councilor McClure informs the public that this is not an option and the \$500,000 is just the first step. Down the road the town is looking at a 10 to 12 million dollar project.

Councilor Pinierio asks Mike Basque if this will be a short term loan. Mike Basque states the town will be applying for SRF funds. It will be financed in the same method the waste water treatment plant was financed.

President Lawrence asks if the State has a web site to find out what projects are on the SRF waiting list. Don Chelton from Metcalf and Eddy states in August the state sends out an invitation for projects. At the end of the year they rank them based on priority.

Councilor Thone states this is not an option it is a step the town has to take. She wants to stress when it come to the second phase there will be options, it could be 10 million or 15 million. At that point it will be scrutinized very closely.

President Lawrence closes the public hearing.

Councilor Benson moves to approve 2006-086 as submitted:

Be it ordered by the Municipal Council assembled and by the authority of the same as follows:
That \$500,000 be appropriated for the Water Treatment Plant Improvement Plan which shall include preparing for and conducting a pilot study, conducting a feasibility study of constructing additional sludge lagoons, revising the Water Management Act source water withdrawal permit and repairing aerators.

Ordered: that \$500,000 is appropriated for the purposes of financing the following projects relating to the upgrade of the Town's water treatment plant: (a) the costs of engineering services for a pilot study relating to needed upgrades to the plant, including a pilot study proposal for the Department of Environmental Protection, (b) the costs of engineering services for a feasibility study relating to the construction of additional sludge lagoons, (c) the cost of repairs to aerators and (d) the cost of engineering services related to a revision of the water requirement act source water withdrawal permit relating to the plant, including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; that to meet this appropriation the Treasurer with the approval of the Mayor is authorized to borrow \$500,000 and issue bonds or notes therefore under G.L. c.44 and/or Chapter 29C of the General Laws; that such bonds or notes shall be general obligations of the City unless the Treasurer with the approval of the Mayor determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer with the approval of the Mayor is authorized to borrow all or a portion of such amount from the Massachusetts Water Pollution Abatement Trust established pursuant to Chapter 29C and in connection therewith to enter into a loan agreement and/or a security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to

such loan and for any federal or state aid available for the project or for the financing thereof; and that the Mayor is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary to carry out the project.

Councilor Pinierio second – Roll Call Vote - Unanimous

Public Hearings

2006-076 Amend Article 40 Amesbury Bylaws – Building Demolition Ordinance – Councilor Lindstrom, Thone sponsor cont.

President Lawrence read 2006-076 into the record.

Councilor Lavoie read the recommendation of the Ordinance Committee meeting 9/26/06. It was voted to discharge back to the Municipal Council with a recommendation to accept but with various changes. The Historical Commission also has proposed changes. All changes are marked on a copy of the bill attached.

President Lawrence opens the public hearing.

Jay Williamson, 186 Main Street. – Mr. Williamson is on the Amesbury Historical Commission. He states the intent of the proposed changes are two fold 1) to keep up with the times and 2) to amalgamate better with other boards and other procedures for some congruence in terms of timing and dates so the Historical Commission will work in unison with other committees. The preservation of all our investments in our neighborhoods and streets is first.

Sue Dowd, 436 Main St. – Ms. Dowd is a member of the Historical Commission. Some of the changes are to correct some inconsistencies, areas that are vague that need stronger definition and some loopholes as well. The bylaw provides time for discussion, compromise and for seeking alternative solutions to all parties' interests at heart. It recognizes that a one size approach is not practical nor is it effective. People will be interested in investing in a community that demonstrates pride and commitment to its history and character. The bylaw brings the neighborhoods to the same level of thought and consideration that has been given to the downtown which has been revitalized in a way that embraces the town's history. Where variance and planning board approval are not needed this bylaw provides the only official forum for the public to comment on proposed development. The weaknesses in the current demolition delay bylaw is that 6 months does not allow enough time to find realistic and actionable solutions such as relocation for a structure, finding a buyer or to meet the application schedule for preservation grants. Secondly, the time restraint does not allow the Historical Commission to properly review applications or to consult with other town boards and committees. Administration and fees are a burden on the taxpayers and the town the way it is structured. It should be modeled after other town boards and committees. The word "substantial" is not currently defined and it leaves a lot up to interpretation. Official notification of public hearings is currently only posted at town hall and in the local newspaper; there is no official notification of abutters. After waiting out a delay, a structure could be demolished with out other permitting for planned development being obtained. If another board then denies permitting, Amesbury will have lost an historic structure for no reason. There is no expiration for a demolition permit; a building could be torn down fifty years from the date the permit is signed. Ms. Dowd points out that the Historic Commission is representing the town's people and people that want to see the property values continue to increase. She wants Amesbury to be seen as a desirable place to live.

Jacqueline Hire, 8 ½ Wells Ave. – Ms. Hire is a member of the Historical Commission. Ms. Hire presents the figures in terms of demolition applications and what has been deemed preferably preserved. In 2004-2005 there was 1,903 permits issued by the Building Inspector of that 27 were demolition permits. That is about .1% of all permits issued in the town. In July 2004 to June 2005 the Historical Commission received 16 demo applications; 3 were deemed preferably preserved and the rest were signed off on. From August 2005 – July 2006 they have received 11 demolition applications; 4 were deemed preferably preserve and two had the full demolition delay invoked. Over the past two years the Historical Commission deemed 4 ½ buildings preferably preserved that the delay was invoked. In a lot of cases there may be only one particular style of house left in town in other cases less than a handful. Once they are gone, they are gone. The barns are going to be gone. She feels there are some misconceptions that anything that come before the commission is going to become preferably preserved; that truly is not the case.

Councilor Lindstrom adds the partial aspect of the bylaw only affects buildings that are historically significant and visible from the road. The requirement of 50 years or older is dropping to 75 years or older. She would like to further amend; a partial demo that is visible from the road would have a 12 month delay, the full demo would retain the full 18 month delay.

Councilor King states that a full demolition would require a resident to wait 25 months not 18. If you add up all the wait periods, 60 days for determination, 65 days for receipt of a demo review package, 90 after the opening of the public hearing, 15 days after the close of the public hearing to write the report and then the 18 month delay it is 25 months. She read from the bylaw section 40.2.11- Demolition does not include the removal of a roof or one or more sides of the building or structure if it is to be replaced in kind. She asks if that means the exact type of roof is being placed on or does that mean if you are renovating and putting on a different kind of roof.

Councilor Lindstrom responds if you wanted to raise a roof and put a third floor on not just maintenance and repair.

Councilor King feels it should be clear what demolition vs. renovation is. She also learned at the Ordinance Committee that 42% of all the homes in Amesbury are 75 years or greater. Using Belmont Street as an example where a lot of four square homes were built, could a homeowner change the whole roof line and bump something up in the back of the house that can be seen from the road, if it was approved at ZBA? Is that the type of situation, upon review by the Historic Commission that would be deemed historically significant? Mr. Johannessen, a member of the Historical Commission, feels Councilor King answered her own question because it is in the back of the house. Councilor King asks about putting on a dormer that is visible from the road. Would that be interfering with the historic preservation of a neighborhood? Mr. Johannessen states it could possibly be. Councilor King wants the community to be very well aware of how long the delay is and who is going to be affected. She does not agree with tying up someone's personal property for 25 months. She feels when some people bought their property they did not buy into a historic district and she feels this bill makes Amesbury a town wide historic district. She does not believe they knew they would fall under very restrictive guidelines and have to wait 25 month to renovate. She will not be supporting this bill.

Councilor Thone does not agree with Councilor King that this bill would make Amesbury a town wide historic district. She believes it is misrepresenting of what this bill actually is. She feels it is a disservice to the people who have spent time working on this. She states the numbers of homes in the last few years that have been denied are minimal and with the age of the home going up to 75 years it could be even smaller. She believes she has a responsibility as steward of the history of this

town to see that what is left is not destroyed. She thinks this bylaw will send a message to developers who might attempt to remove one of the historic structures just how much the people of Amesbury respect its history.

Councilor Lindstrom states 18 months is not the rule it is the extent of what can be invoked. Twelve months is the extent not the rule. She says developers buy a piece of property, take the house down and put up a McMansion. They have taken down a colonial garrison, a Georgian structure to put up McMansion. The neighborhood has now lost the historical value it had as a historical area. The people who buy historical homes are generally a breed apart. They want to buy historical homes. People who buy historical homes know what they bought and know what their neighborhood is. Councilor Lindstrom fully supports 2006-076.

Councilor Lavoie states he was torn about the ordinance. He feels it is a balancing act between homeowners having the final say in what they can do with their homes and the wish of a community wanting to preserve its history.

Lars Johannessen suggests changes as follows: Notwithstanding the foregoing language contained in the sub section 40.3.3d "if the demolition involves the removal of a roof or one or more sides of the building or structure not to be replaced in kind the maximum length of the demolition delay shall not exceed the period of 12 months from the date that the applicant has submitted an application for a permit for such demolition".

Councilor Benson believes this is an issue of public interest and the community should have strong authority to preserve the character of the community and what people really like about the community and why they choose to live here. He hopes the council moves forward with 2006-076.

Councilor Lavoie motions to accept the recommendation of the Ordinance Committee and adopt 2006-076 with the changes recommended by the ordinance committee with the additional changes passed out that added to the end of sub section 40.3.(d) notwithstanding the foregoing contained in this subsection 40.3.3. (d) "if the demolition involves the removal of a roof or one or more sides of the building or structure not to be replaced in kind, the maximum length of the demolition delay shall not exceed a period of 12 month from the date that the applicant has submitted an application for a permit for such demolition".

Councilor second – Voted – 8 Yes, 1 Abstain (Brennick)

Recess

2006-084 A Vote to petition the General Court to Adopt Legislation Precisely – An Act Relative to Limiting the Use of Eminent Domain – Councilor Lindstrom sponsor cont.

President Lawrence reads 2006-084 into the record.

Councilor Lavoie read the recommendation of the Ordinance Committee to discharge back to the Municipal Council to approve as submitted.

President Lawrence opened the public hearing on 2006-084.

Councilor King states the Mayor has submitted changes to the eminent domain document and questions whether or not the council should vote 2006-084 before reviewing his amendments.

Councilor Lindstrom wants to vote 2006-084 with out any changes and before discussion on the Mayor's amendments because she feels what the Mayor proposes to amend is already covered by the charter and what he takes out in lieu of what he would like to put in, takes away the power of the council and allows and EDIC or Urban Renewal Commission to be able to invoke eminent domain and use it. She feels the major point of the eminent domain bill is to prevent the council from giving their power away.

Councilor Lavoie states the Ordinance Committee will be looking at 2006-110 and he suggests sending 2006-084 back to discuss it again with the amendments.

Councilor Lindstrom does not agree she feels the power of eminent domain should stay with the legislative body.

Councilor McClure feels the Mayor is weakening everything the Council put in place to protect citizens' rights and has taken the power away from the legislative branch to manage this process for the citizens. She does not believe Mass General Law is good enough. She will not support the amendments the Mayor has asked for and she wishes to continue with the eminent domain bill the way it was presented.

Councilor Thone states there has been a lot of discussion on eminent domain, she feels that if the Mayor was going to propose amendments she would have liked to have known about them during the discussions; they could have been addressed at that time. Councilor Thone does not believe the community would accept the Mayor's amendments; she does support Councilor Lindstrom in moving 2006-084 forward.

Councilor Benson states Councilor Lindstrom's bill was to put into words that only the Council has the authority on eminent domain and he thinks that is important. He feels there is a big difference in not allowing someone to do something to their home than taking someone's home. If it is for economic development purposes from which people can profit he does not think it is right.

Councilor King voted in favor of Councilor Lindstrom's eminent domain bill but plans on abstaining tonight because she wants to hear if there are legal issues with the Mayor's amendments.

Councilor Thone motions to adopt 2006-084. Councilor Pinierio second – Voted 7 Yes, 2 Abstain (King, Lavoie)

2006-087 An Order to vote to appropriate funds for FY07 Whittier Regional Vocational Budget – Mayor Kezer sponsor cont.

President Lawrence read 2006-087 into the record and opens the public hearing.

Councilor Brennick read the recommendation of the Finance Committee to recommend approval.

Councilor Brennick motions the council adopt bill 2006-087 to appropriate FY07 Whittier Regional Vocation budget \$422,095. Councilor Benson second. Roll Call Vote – 7 Yes, 2 No (McClure, Pinierio)

2006-089 Request the Municipal Council Vote to accept MGL Ch 39, Sec 23D – Mayor Kezer sponsor cont.

President Lawrence reads 2006-089 into the record.

Councilor Lavoie read the recommendation of the Ordinance Committee:
Bill No. 2006-089

Ordinance and Rules Committee Recommendation on 2006-089

Chapter 39, Section 23D is hereby accepted so that any member of any elected or appointed municipal board, committee or commission shall be permitted to sit on an adjudicatory hearing and not be disqualified from voting in the matter solely due to that member's absence from NO MORE than a single session of the hearings at which testimony or other evidence is received.

Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof.

The written certification shall be part of the record of the hearing.

And it is further voted that

ARTICLE 44- COMMITTEE PROCEDURES BYLAW is hereby amended by adding the following:
44.10 Adjudicatory hearings; attendance by municipal board, committee and commission members; voting disqualification.

Any member of any elected or appointed municipal board, committee or commission shall be permitted to sit on an adjudicatory hearing and not be disqualified from voting in the matter solely due to that member's absence from NO MORE than a single session of the hearings at which testimony or other evidence is received.

Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof.

The written certification shall be part of the record of the hearing and be filed with the Town Clerk.

44.10.1 Certification shall be essentially in the following format

I, (name of individual) hereby certify that I have examined all evidence received by the (name of board) at the session I missed on (date of meeting) **for the public hearing held on (subject, bill #, project)**, said evidence includes any audio and/or video recording of the missed session or a transcript thereof. I further certify that I have missed no more than one (1) public hearing on said matter.

Signature

Date of Signature

President Lawrence opens the public hearing.
President Lawrence closes the public hearing.

*Councilor Thone motions to adopt 2006-089 with the amendments of the Ordinance Committee.
Councilor Benson second – Voted Unanimous*

2006-096 An Ordinance to Seek Remediation at Margaret Rice Park to Facilitate Construction of Athletic Fields – Councilor Lindstrom sponsor cont.
President Lawrence read 2006-096 into the record.

Councilor Lindstrom motions to table 2006-096, Councilor Benson second. Voted – Unanimous

2006-100 An Order to Appropriate \$20,000 to fund Special Expenses of the Municipal Council – Councilor Lawrence, Thone sponsor cont.
President Lawrence read 2006-100 into the record.

Councilor Brennick read the recommendation of the Finance Committee to approve pending an executive secession with the Mayor to review his Attorney's purchase and sale review and send this back to the council. Councilor Brennick states they have not had the executive session and doesn't know if they are going to get one.

President Lawrence opens the public hearing on 2006-100.

Councilor Brennick states that the Ad Hoc committee has 90 days to respond and asks Alan Neal if he has heard from the Mayor and whether or not his attorney is going to meet with his committee. Mr. Neal states they have not heard officially however; he is hopeful they will. He knows there is great concern about double dipping into the legal funds and if the Mayor's attorney is looking into the scope of the RFP he feels it does not have to be duplicated.

President Lawrence states the Council is asking for \$20,000 to hire outside legal staff for an opinion regarding the council's resolution to rescind the Bailey's Pond project. State law chapter 44 section 33 gives the council the right to appropriate funds to go out for legal counsel. The council needs its own unbiased opinion regarding Bailey's Pond, not from the Mayor and Kopelman & Paige. He states the council can approach it in two different ways, Chapter 44 section 33 or go with what is allowed in the Town Charter Section 3.6. – Town Clerk and Council Staff – The municipal council shall appoint a town clerk who shall also be the clerk to the municipal council, and may employ such staff and retain such assistance as is necessary to conduct the business of the municipal council. The municipal council shall set the compensation of such staff. He believes section 3.6 of the Town Charter gives the council the right to hire their own legal counsel.

Councilor King does not agree with the Municipal Councils investigation. She agrees the municipal council needs to resolve the fact that ordinances are not overseen by legal counsel. She does not question the authority the council has under the town charter but questions the authority under MGL. The real issue she has is that it will be funded with money from other departments. She does not feel this rises to the level to go into executive session and will not participate in one.

Councilor McClure feels this absolutely rises to the occasion of executive session. She states the Mayor has an opportunity to sit down with the municipal council and the counsel he has already hired and ask him what he thinks about the purchase & sales agreement; is it valid. He can allow the municipal council, in executive session, to use his counsel and not spend the extra money.

Councilor Thone feels the legal counsel hired by the Mayor represents the executive branch and not the legislative branch. She has no evidence that says that they are looking at this from the prospective of allowing the council to move forward with its business. If 2006-100 is approved the council is looking at reducing some line items to offset the appropriation. If they choose not to reduce line items they will be looking for an increase on taxes and she will not support that. She feels the council should look at an administrative act through section 3-6 authorizing council president to actually hire staff necessary to conduct the business of the council.

Councilor Lindstrom asks if the funds can come from the legal budget. President Lawrence believes that is where the funds would come from if they used section 3-6 of the Town Charter. The bills would be submitted to the CFO for payment.

Councilor Benson cautioned the council on going into executive session. He feels it is something that can get the council into a lot of trouble. He feels this has come down to a turf battle that the council is on the wrong side of. The Mayor is handling this, as he should and he does not feel the council should duplicate that and run an inquisition of what happened. He feels it is being handled properly and will not support 2006-100.

Councilor Lavoie cautions against going into executive session as was recommended by the Finance Committee. He feels this is serious business with a purchase & sales agreement which is either valid or not with laws and liabilities that go with that. Based on the unique set of circumstances there is a potential for this to get into litigation. He suggests to find out whether or not it is feasible or not to have an executive session by putting in a written request to the District Attorney's Office in Salem. If the Attorney General's office advises that an executive session is appropriate it should be when the Mayor's attorney has finished his investigation and report.

President Lawrence states we do have opinions on file from Kopelman & Paige regarding executive session.

Councilor King states the purchase and sale agreement was in the realm of the executive branch, the Mayor came to the council just as a courtesy. She does not believe the municipal council can rescind. Councilor Thone says the council needs legal advice to know.

Robert Fowler, 25 Clinton Street – Mr. Fowler is curious what the councilors supporting 2006-100 are hoping to achieve by hiring another legal counsel.

Councilor McClure is hoping to get a response and find out if the agreement is valid. The Mayor's counsel is looking at a go forward basis to make sure the mistakes of the past don't happen again. He wants to be sure there is a process in place for procurement.

Mr. Fowler sees that the purchase and sales agreement has been signed and that it will be very difficult to back out of. He is very disgusted with several members of the council. He believes the Mayor was elected to do a job and he sees this council constantly trying to stonewall him. The Mayor has legal counsel looking into the project; he should be able to do his job.

Councilor Thone appreciates Mr. Fowler coming down and agrees that they have different opinions. As part of the Ad Hoc committee she requested documents from Kopelman & Paige and was denied access to them. Kopelman & Paige claimed they were working with the Mayor. They don't work for this council and we need a legal opinion on an ordinance that is before us.

Councilor King asks the council if anyone has asked the Mayor if his attorney is looking at the contract. Councilor McClure states they Mayor told them what the attorney was looking at and the contract was not on the list.

Councilor Benson states the contract was talked about and he believes the answer was yes, it was part of the second phase of his investigation. Councilor Lavoie agrees. President Lawrence recalls the Mayor saying the attorney hasn't looked at it yet. President Lawrence questions whether or not the Mayor is really going to ask the attorney to look at the contract.

Councilor McClure said she would call the Mayor in the morning and ask the Mayor if his attorney is going to look at the purchase and sale. Councilor Thone believes they need an attorney to look at the order to rescind not the purchase and sale.

Mr. Fowler objects to the council constantly trying to interfere with the Mayor doing the job he was elected to do. Councilor Thone feels it is important for Mr. Fowler to read the charter. She assures Mr. Fowler that the council is not going beyond its authority.

Deborah Bibeau, 17 Monroe Street – Ms. Bibeau suggests to the council that they check with their association for free legal advice.

Councilor Lindstrom states the council has the authority to do inquiries and investigations per the charter.

Barbara Hathaway, 9 Swetts Hill – Ms. Hathaway feels the purchase and sales agreement with Farfard is a no win situation for Amesbury.

Mike Greaney, 50 Orchard Street – Mr. Greaney supports the Municipal Council.

Laurie Erwin, 6 Swetts Hill – Ms. Erwin would support waiting a couple of weeks to review the report by the attorney hired by the Mayor.

Councilor King responds to Councilor Lindstrom remarks about the Council's authority to conduct inquires and investigations.

Councilor Thone motions to continue the public hearing on 2006-100 to October 24th council meeting. Councilor McClure second - Voted 8 Yes, 1 No (King)

Councilor King was not aware of a meeting scheduled for October 24th and can not make the meeting due to a prior commitment with the High School Building Committee.

President Lawrence states for the next couple of months there will be two council meetings a month.

Councilor Benson moves to suspend the 10:30 rule, Councilor Thone second – Voted Unanimous

2006-111A A Preamble

Due to the significant water infiltration through the façade of the Police Station, I am hereby declaring an emergency out of concern for public safety and health. We do not want to impact the installation of the new 911 system, by installing expensive new electronics gears in an area that is leaking water. Currently a back-up system is being used for regular operations. Secondly, we would have serious issues trying to move personnel back into that part of the facility with known mold problems if the cause of the mold, water infiltrating the building façade, is not adequately and appropriately addressed.

Councilor Benson moves to accept 2006-111A. Councilor Lavoie second – Voted – Unanimous

2006-111B An Emergency Order to vote to appropriate \$80,000 from Free Cash for the emergency repairs to the Police Station.

President Lawrence read 2006-111B into the record, opens the public hearing.

Barbara Hathaway, 9 Swetts Hill – Ms. Hathaway supports the police department and wants to help prevent disease because of the mold. She states first you have to remove the source of water, seal it and move on to the second phase of mold remediation.

Councilor Benson moves for approval of 2006-111B as submitted. Councilor King second.

Councilor Thone wants to make it clear that this does not address the mold in the building. She feels it is irresponsible to seal up the walls before the mold is tested. She would like to hear what the Board of Health is going to do to prevent the installation of equipment without addressing the mold first.

Phil Yetman, Chairman Board of Health – Mr. Yetman came to the meeting to support getting the job done. The Board of Health will be watching making sure a process is followed and inspections are made.

Councilor Thone wants to go on record that she would like a plan to check the mold before the system is installed, the dispatchers are put back into that room and the walls sealed.

Councilor Thone states the bill also states it is re-pointing and sealing the front wall, it does not state anything relative to the balcony. The bid was \$74,000; the balcony portion was \$14,000, she proposes that the balcony is not restored and re-attached until the next budget season.

*Councilor Benson moves for approval of 2006-111B as submitted. Councilor King second.
Roll Call Vote – 4 Yes, 5 No (Brennick, McClure, Pinierio, Thone, Lawrence) Motion Fails*

Councilor Thone motions to amend 2006-111B to appropriate from free cash \$60,000, Councilor Brennick second.

Roll Call Vote – 6 Yes, 3 No (Benson, King, Lavoie)

Councilor Benson motions to adjourn, Councilor McClure second. – Voted Unanimous

Respectfully submitted,
Assistant Town Clerk