

Municipal Council Meeting
Tuesday, October 24, 2006, 7:00PM
Town Hall Auditorium

Call to Order 7:00PM

Pledge of Allegiance – Councilor McClure

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

Robert Lavoie excused absence.

Public Hearing

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 and opened the public hearing.

Councilor Brennick states they have not heard if the Mayor's Attorney, Mr. Urbelis is going to cooperate with the council. He does not know if he is going to look back; he knows he is going to look forward. Councilor Brennick suggests the council go along with the appropriation as submitted.

Councilor Thone states she has actually heard from the Mayor and quotes from his email "The question you want to ask Attorney Urbelis is whether the review of that ordinance is part of his scope of work. The answer to what I believe you are asking is no. I did not include having him review the ordinance currently before the council"

Councilor Brennick believes the council needs representation by private counsel.

Councilor Brennick motions to accept 2006-100, Councilor Pinierio second.

Councilor King asks Councilor Thone to read the Mayor's email again.

Councilor Thone amends Councilor Brennick's motion to table 2006-100 and to be recognized after the vote for the purpose of making another motion. Councilor McClure second. Voted – Unanimous

Councilor Thone makes a motion pursuant to section 3-6 of the charter which states "the municipal council may employ such staff and retain such assistance as is necessary to conduct the business of the municipal council and that the municipal council authorize Council President Lawrence to perform the administrative action of employing and retaining the assistance necessary for the purpose of conducting the business currently before the council specifically the ordinance to rescind 2006-079. Councilor Brennick second.

Councilor Benson states it seems it is putting the cart before the horse if we are going to table the bill for the money and then authorize the Council President to make the hire before the money has been appropriated.

Councilor Thone states the council has the authority in the charter to retain assistance or staff to conduct their business. She thinks it is pretty clear that they need legal counsel and they do not have access to Attorney Urbelis or Kopelman & Paige. Council President and Mayor Kezer have had conversations concerning Kopelman & Paige and their conflict relative to this ordinance. By using an administrative action we are authorizing Council President to retain this assistance. The bills are

going to be submitted to the CFO and she expects it to come from a budgeted line item for legal services, it has been done in the past.

Councilor King asks President Lawrence if he has asked the Mayor how much money is in the legal budget and how much he anticipates the legal counsel will cost. President Lawrence has not asked the Mayor. If the order to appropriate passes he will get some estimates. Councilor King asks what if the costs exceed the town's legal budget. President Lawrence does not think it will.

Councilor Thone states that when the Mayor hired Attorney Urbelis there were no parameters what so ever around the bill that would be received from him. She is very hopeful there is still plenty of money left in the legal line item to get an opinion because we are only four months into the fiscal year. As the Legislative branch of the government, she feels it is worth it to this community to get a legal opinion on this ordinance whether it \$200, \$1000 or \$2000. The council can not move forward, their hands have been tied until and unless they can get legal advice.

Councilor McClure states the Ad Hoc Committee is receiving very little cooperation and there is an attorney for the other side sitting at every meeting.

Councilor Benson reminds the council that they were very critical of the Mayor for not having parameters defined before he hired Attorney Urbelis so therefore he feels the council should have parameters defined before hiring an attorney.

Councilor Lindstrom feels the parameters were defined, to review the rescinding of the ordinance the council approved to go forward with the Purchase and Sale.

Councilor Benson states the Mayor was criticized by the Council President for not having an exact handle on the cost.

President Lawrence states if the order passes he will come back before the council and tell them what the costs are before moving forward.

Councilor King for the record wants to voice her objection to the road the council is taking. Seeking legal review for an ordinance before the council is different from forming an Ad Hoc Committee to oversee the investigation of Bailey pond that she clearly sees as the role of the Mayor. She perceives it as wasteful spending and raiding other people's budgets.

Councilor McClure moves the question.

Councilor Thone makes a motion pursuant to section 3-6 of the charter which states "the municipal council may employ such staff and retain such assistance as is necessary to conduct the business of the municipal council and that the municipal council authorize Council President Lawrence to perform the administrative action of employing and retaining the assistance necessary for the purpose of conducting the business currently before the council specifically the ordinance to rescind 2006-079. Councilor Brennick second. Roll Call Vote – 6 Yes, 2 No (King, Benson)

New Business

2006-105 An Ordinance to Accept MGL Ch 184 Sec 52 and Amend 98-204 – Councilor Lindstrom, Lawrence sponsor
President Lawrence read 2006-105 into the record.

Councilor Lindstrom corrects the ordinance, it is not MGL it is Chapter 184 Section 52 of the Acts of 2004

Councilor Thone motions to send 2006-105 to the Ordinance Committee and Finance Committee. Councilor Benson second – Voted Unanimous

2006-108 An Order to accept a \$500.00 donation from Wal-Mart – Mayor Kezer sponsor
President Lawrence read 2006-108 into the record.

Councilor Brennick motions to forward to Finance, Councilor Thone second – Voted Unanimous

2006-110 A Request for the Municipal Council to amend Section 1 of Bill #2006-013 and 2006-084 Eminent Domain to be consistent with Mass General Laws – Mayor Kezer sponsor
President Lawrence read 2006-110 into the record.

Councilor Lindstrom moves to suspend the rules to make a motion other than to send 2006-110 committee, Councilor Thone second. – Voted 6 Yes, 2 No (King, Benson)

Councilor Lindstrom moves to indefinitely postpone 2006-110 because the issue was before the council twice. The first time it passed with unanimous approval and the second time it passed 7 to 1 with one abstention. It was in Ordinance twice and passed unanimously twice. It will be on its way to the State so we can have a home rule mandate, Councilor Thone second

Councilor King asks Councilor Lindstrom; what is the harm in giving this a review before the Ordinance Committee. Councilor Lindstrom replies there isn't one but, we are waiting for the Mayor's reaction to a piece of legislation that has been approved twice to go before the State. The purpose according to the Mayor's amendment is to put us in line with MGL. The purpose of the bill that Councilor Lindstrom sponsored was to have Amesbury not to be in line with MGL because she believes that people's property is not properly protected by MGL.

Councilor King asks Councilor Lindstrom to reconsider; she feels that if Mayor Kezer has concerns it should be voiced in the public. In addition there are issues regarding water and sewer. Councilor Lindstrom disagrees she believes water and sewer are protected and it is economic development that is not protected.

Councilor Benson agrees with Councilor King he believes if the Mayor submits something the council should at least discuss it. He believes it is an issue of showing respect. He will be voting against indefinitely postponing.

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Mike Greaney, Orchard Street – Mr. Greaney disagrees with the amendment to the eminent domain bill.

Mark Deschenes, 1 Highland Street – Mr. Deschenes thanked Councilor Lindstrom for the eminent domain bill. He does not support the amendment at this late date.

Councilor Lindstrom states she didn't motion to indefinitely postpone out of disrespect. She says the original bill was filed in January and voted in October. She feels there was plenty of time for Kopelman and Paige to voice their opinions.

Councilor McClure states in the case of eminent domain typically the property is declared blighted which immediately drops the property value. The town can then decide what the property is worth. People end up not only losing their home they get less value for it. She feels 10 months was enough time for the Mayor to question the bill.

Councilor Benson asks President Lawrence in what capacity he responded to a letter from DCAM regarding the surplus property on Route 110/Elm Street and what it means. President Lawrence says the letter was addressed to Council President Christopher Lawrence. He met with Nipun Jain to find out what the town was thinking and about the proposed pharmacy for that property. Mr. Jain said the town wanted to keep the surplus land for possible use in the future for widening Rt. 110 or Elm St. He did respond that the town did want to keep their rights to the surplus land.

Councilor Benson reads Rule 3 of the council rules and procedures that states "no member of the municipal council, including the presiding officer, shall exercise authority outside of meetings, nor exercise any administrative responsibility with respect to the town unless such authority has been specifically delegated to him by statute or by vote of the Municipal Council." He believes the issue should have been taken up as a group. President Lawrence states it was on the council agenda, it was read into the record and for some reason it was not discussed. He believes there is a term in the council rules to ask for the council's approval of responding on their behalf. Councilor King believes that would be Rule 2 but, for emergency measure only. President Lawrence said a response was required by October 20th or they would surplus the land. Councilor King believes that by responding as President Lawrence he spoke for the council and wants to know how he felt he had the authority to do so.

Councilor McClure called Nipun Jain and asked him what the town's position on the issue was; he responded that the town did want to keep control of the land for future development. Since the Council President and Mayor were in agreement she does not see the harm done.

Councilor Benson respectfully disagrees. The matter was not discussed. He asks President Lawrence to consult the council before acting on their behalf.

Councilor King wants it on the record to clearly state her objection to Councilor Lawrence violating the rules and procedure, rule #3.

Councilor Thone motions to acknowledge a vote of confidence in support for the Council President's action in this matter. Councilor Brennick second.

Mark Deschenes asks what action was required.

Councilor King asks Councilor Thone if she believes it is okay for Councilor Lawrence to violate council rules. Councilor Thone does not believe he did.

Councilor Thone motions to acknowledge a vote of confidence in support for the Council President's action in this matter. Councilor Brennick second. Voted – 6 Yes, 2 No (King, Benson)

Committee Updates

Ad Hoc Committee – Bailey's Pond

The committee has held several meeting and they will continue to meet. They have conducted interviews with people who were involved in some capacity with the Bailey's Pond/Terresphere RFP/P&S and will continue to do so. The Committee will prepare a comprehensive report after all the interviews. They are asking for an extension from the council to the end of November.

Councilor Pinierio motions to extend the Ad Hoc Committee to the end of November, Councilor McClure second - Voted – 6 Yes, 2 No (King, Benson)

Education Policy Committee

Councilor Lindstrom states they haven't had a quorum to meet.

Public Safety Committee

Councilor Brennick states the committee has not met since January, 2006

President Lawrence read the warrant for the November 7, 2006 State Election

Accept Resignation of Jana Parenteau – Library Board of Trustees

Councilor Benson motions to declare the seat vacant, send a thank you letter and schedule a joint meeting with the Library Board of Trustees for the November 14th council meeting, Councilor Lindstrom second – Voted Unanimous

Councilor Thone motioned to send 2006-097 to the Planning Board, Councilor Benson second – Voted Unanimous

Councilor McClure motioned to adjourn, Councilor Lindstrom second – Voted Unanimous

Respectfully submitted,
Assistant Town Clerk