

Amesbury Municipal Council Meeting
November 15, 2005
Town Hall Auditorium

Pledge of Allegiance – Councilor Lawrence

Roll Call: Roger Benson, James D. Chandler, Ann Connolly King, Esther F. Headley, Christopher Lawrence, Mario J. Pinierio, Joseph McMilleon.

Robert Woodsom excused absence, Anne Larnard late arrival.

Accept minutes September 28, 2005, October 11, 2005 and October 26, 2005
Councilor Benson motions to accept, Councilor Pinierio second, 7 – yes

Public Comment

Mayor Appointments

2005-120 Appointment of Bonnijo Kitchin – Municipal Hearing Officer
President McMilleon reads 2005-120 into the record and reads a letter from the Mayor stating that Bonnijo Kitchin has declined this position and Richard Clark has agreed to serve as Municipal Hearing Officer.

Josh Handverger explains that Chapter 148A is a designee of the head of the fire department who is empowered to enforce the state fire or building codes and is authorized to issue citations for violations similar to parking tickets. This person will receive a stipend from the money collected from the citation system, not yet determined. Councilor Pinierio questions whether it violates the charter having Richard Clark serving on Emergency Management as well as Municipal Hearing Officer. Josh Handverger states that this is a state requirement and the only stipulation is that they are not a member of the fire department or the building inspection department.

*Councilor Benson moves for approval of 2005-120 as amended.
Councilor Lawrence second
Voted – 7 Yes*

2005-121 Appointment of Tracy Healy member of the Design Review Committee unexpired term to expire 6/30/06.

President McMilleon reads 2005-121 into the record.

*Councilor Lawrence moves for approval of 2005-121 as submitted.
Councilor King second*

Councilor Pinierio does not want to vote until Tracy Healy comes before the board. It is explained that this will become valid November 19th so it has to be approved or defeated now.

Councilor Pinierio wants it noted that from this day forward he wants anyone appointed to a position to appear before the Council so they can ask questions.

*Councilor Lawrence moves for approval of 2005-121 as submitted.
Councilor King second
Voted – 6 Yes, 1 No (Pinierio)*

2005-122 Appointment of Jean Little-Bruce member of Council on Aging – unexpired term to expire 6/30/06

President McMilleon reads 2005-122 into the record.

Jean Little-Bruce states she has dedicated her career to long term care nursing in and around this community. Being a part of the council on aging will allow her to extend that care.

Councilor Benson moves for approval for 2005-122 as submitted

Councilor Pinierio second

Voted – 7 Yes

PUBLIC HEARINGS

2005-24 An Ordinance to Ensure Access to Public Documents – Councilor Lawrence sponsor cont.

President McMilleon reads 2005-24 into the record.

Councilor Lawrence moves to withdraw 2005-24 without prejudice.

Councilor Chandler second

Voted – 7 Yes

2005-60 Amend Rule 5F “Public Comment” of the Amesbury Municipal Council Fourth Session Rules and Procedures – Councilor Lawrence sponsor cont.

President McMilleon reads 2005-60 into the record

Councilor Lawrence moves to continue 2005-60 to the December 13th council meeting for a public hearing and a rules and procedures meeting to be determined prior to that.

Councilor Pinierio second

Voted – 7 Yes

2005-81 An Ordinance to see if the Municipal Council will accept a donation of land from Woodsom Limited Partnership – Mayor Hildt sponsor cont.

President McMilleon reads 2005-81 into the record

Josh Handverger states that 2005-81 is still in planning board waiting a decision from legal counsel.

Councilor King asks Mr. Handverger for an update regarding the lawsuit on the playing fields at Woodsom Farm he states he will provide that for the Council for the next meeting.

Councilor Pinierio motions 2005-81 be continued to the December 13th Council meeting for a public hearing.

Councilor Benson second

Voted – 7 Yes

2005-82 An Ordinance to Amend the Amesbury Zoning Bylaw Section XI.J2 Historic Preservation – Mayor Hildt sponsor cont.

President McMilleon reads 2005-82 into the record.

Councilor Lawrence states they are waiting for the Planning Board recommendation and motions to continue to the December 13th Council meeting for a public hearing.

Councilor Pinierio second

Voted – 7 Yes

Councilor Larnard arrives.

2005-91 An Ordinance to request the Municipal Council to vote to accept a gift of land from Wayne P. Adams – Mayor Hildt sponsor cont.

President McMilleon reads 2005-91 into the record and opens the public hearing.

Councilor Lawrence states that the ordinance committee gave no recommendation except to have Mr. Adams come to the municipal council meeting.

Nipun Jain states the planning board's decision is that this is non-build able land and can not be developed. They approve accepting this as a gift.

Wayne Adams states that this was part of the great swamp that his grandfather got at the turn of the century. It abuts Woodsom Farm land and has a right of way off Friend Street across from the Cashman School.

Councilor Pinierio asks Mr. Adams what the land is valued at and he states \$33,000.00. Councilor Pinierio asks Nipun Jain if the lot is build able, he states the land is land locked and doesn't have enough frontage on the right of way to build.

Mike Greaney, 50 Orchard Street – Mr. Greaney feels the town is taking back too much taxable land especially when builders come in with cluster developments where they need a certain amount of open space and when they are done they want to give back all the surplus land to the town so they don't have to pay taxes.

Hank Brennick is against the town taking back the land.

President McMilleon closes the public hearing.

Councilor Benson feels the only way to control building on this land is to accept it. If the town owns it the only way to build on it is if the Municipal Council votes to surplus it.

Councilor Pinierio feels the town is accepting too much land and not receiving any taxes on it.

Councilor Chandler is not prepared to vote tonight due to lack of information on the right of way. He feels if the town is going to have public land it has to be accessible to the public.

Councilor Benson points out that preservation of open space is a chief concern of the citizens of Amesbury. Usually if the town wants to pick up land they have to buy it, this land is being given to us.

Councilor Benson moves for approval of 2005-91

Councilor King second

Roll Call Vote – 6 Yes, 1 Abstain (Chandler), 1 No (Pinierio)

2005-93 An Ordinance to see if the Municipal Council will vote to accept a Compost Site Policy and Schedule of Fees – Mayor Hildt sponsor cont.

President McMilleon opens the public hearing.

Councilor Lawrence reads the ordinance committee recommendations to accept the fees as presented but requested the Municipal Council to clarify if the fees should be waived for senior citizens. They also recommended that the policy be removed from the bill and set up under separate cover.

Brian Gilbert reads the Yard Waste Facility Use Policy (attached) discussion on the policy continues. Mr. Gilbert would like to implement the new policy January 1, 2006. Councilor Pinierio would like a letter given out to the people using the compost facility stating the new policy. Councilor Chandler would like to see consideration given to Christmas trees. Mr. Gilbert states they will open in late January for Christmas tree drop off.

Jane Snow, Fern Ave. reminds people that it is not a dump it is a cemetery and feels that the money collected should go to the cemetery.

Mike Greaney, 50 Prospect feels there should be better management at the compost site.

President McMilleon closes the public hearing.

Councilor Chandler motions to accept 2005-93 as submitted.

Councilor Pinierio second

Voted – 8 Yes

2005-94 An Ordinance to amend Amesbury Zoning By-Law Section XII, B and C in order to meet State flood regulations – Mayor Hildt sponsor cont.

President McMilleon reads 2005-94 into the record.

Councilor Lawrence reads the recommendations of the ordinance committee to accept the recommendation of the planning board which was to approve 2005-94.

President McMilleon closes the public hearing.

Councilor Chandler motions to approve 2005-94 as submitted

Councilor Lawrence second

Roll Call Vote – 8 Yes

2005-96 An Ordinance to amend Amesbury Zoning Bylaw Section XI.H2 Lower Millyard Overlay District – Mayor Hildt sponsor cont.

President McMilleon reads 2005-96 into the record and opens the public hearing.

Joseph Fahey – Mr. Fahey gave a brief overview of the lower millyard and explains that the ordinance would help to provide controlled development with mixed use. The total taxable income in the lower millyard now is approximately \$100,000 and the estimated development in that area would approach \$100,000,000.

Curtis Wollitz – Mr. Wollitz, Chair of the Economic Development for the Alliance for Amesbury, states that the Alliance fully supports this zoning change and the development of the lower millyard.

Councilor Pinierio asked if Bartley's, Nichols, Atlantic Transmission and the Natural Gas Company were part of the lower millyard overlay district. Mr. Fahey said yes and that they have had discussions with all.

President McMilleon closes the public hearing.

*Councilor Lawrence moves to approve 2005-96 as revised by the planning board.
Councilor Benson second
Roll Call Vote – 8 Yes*

Recess 8:10

2005-98 A Request that they Municipal Council vote to abandon the portion of the public way known as Birch Avenue – Mayor Hildt sponsor cont.

President McMilleon reads 2005-98 into the record and opens the public hearing.

Councilor Lawrence read the recommendation from the ordinance committee to accept the recommendation of the planning board.

President McMilleon closes the public hearing.

*Councilor Chandler moves to accept 2005-98 as proposed
Councilor Pinierio second
Roll Call Vote – 8 Yes*

2005-101 An Order to appropriate Free Cash to fund Capital Expenditures – Mayor Hildt sponsor cont.

President McMilleon reads 2005-101 into the record and opens the public hearing.

Councilor Benson read the recommendation from the Finance Committee to approve 2005-101 as submitted with the stipulation that any remaining funds after the purchases shall be submitted by the Mayor to the Council for the funds to be transferred to the stabilization fund.

Jane Snow, Fern Avenue wants the money that is going to be collected from the 61A roll back taxes to be used for these purchases. Mike Basque says the Assessor is going to bill for those taxes but does not necessarily mean it will be collected. Also, you can't spend what you have not collected yet. Allison Lindstrom, Wells Avenue wants everyone to keep in mind that the utilities have gone up dramatically. She is concerned that the budget is going to be over extended on those items and potentially plowing she would like to see free cash left alone. Hank Brennick, Lake Attitash attended the Finance Committee and it was said that this bill would be addressed by line item and not as a whole. Mike Greaney, Orchard St. agrees that the Ordway Building should be done and the money should be taken from the free cash that is ear marked for 2005-101.

President McMilleon closes the public hearing. He does not see the need to go forward with this bill. There is a new Mayor and a new Council coming in and they ought to make this decision. He agrees with the comments made regarding the high energy bills that the town will be facing in the near future. There is nothing in 2005-101 that is an emergency with the exception of the \$140,000 for an outstanding bill for the state. Councilor Benson feels the \$30,000 for the Ordway Building should be reduced from School Building line item. Councilor King feels there are a number of items in 2005-101 that can not wait for the new Mayor particularly the police communications system. She also feels the plow for the DPW can not wait. In putting off some of these items she feel the town will be liable for a potential lawsuit. President McMilleon feels that if the communication system was such an emergency the police chief and the mayor should have come to council and not at the 11th hour. Councilor Larnard would like to have somebody from the school come to the council with an update regarding the energy bills. She would like to see the blue light system, DPW equipment, police communication system and the outstanding bill for the state pass.

Councilor Pinierio motions to vote on 2005-101 line item by line item

Councilor Chandler second

Voted – 8 Yes

2005-101A Police Communication Center \$250,000.00

Councilor Benson moves to approve 2005-101A Police communication Center \$250,000.00

Councilor King second

Councilor Benson feels that this is critical and that the police can not go out to bid without an appropriation. Mike Basque agrees; no company will put together a realistic bid without an appropriation. Councilor Larnard says that the council has been told about the need for a new communication center for a year. We have all been invited a couple of times to go to the police station and look at the system. It is a huge safety issue. Councilor Lawrence would like to see it reduced by \$50,000. President McMilleon is bothered by the fact that if it is such an emergency it should have come before the council as an emergency measure. Councilor Larnard reminds everyone that the Police Chief and the Mayor were at the Finance Committee meeting when this was discussed.

Councilor Benson moves to approve 2005-101A Police Communication Center \$250,000.00

Councilor King second

Councilor Pinierio objects to the vote.

2005-101B School Buildings \$35,000

Councilor Lawrence motion that 2005-101B is not funded for \$35,000

Councilor Chandler second

Councilor Benson asks that \$5,000 be left in to cover the steam boiler.

Councilor Lawrence amends his motion to fund 2005-101B at \$5,000

Councilor Chandler second

Roll Call Vote – 5 Yes, 1 Abstain, 2 No (McMilleon, Pinierio)

2005-101C Town Clerk – Office Equipment \$9,000.00

Councilor Lawrence moves for approval of 2005-101C \$9,000

Councilor Pinierio second

Roll Call Vote – 8 Yes

2005-101D Personnel Study \$10,000

Councilor Benson moves for approval of 2005-101D as submitted

Councilor Larnard second

Councilor Larnard says that this is something that Mayor Hildt has asked for every year and every year it was turned down. It was unwise to do that. Last year when we were looking at the budget and where to make cuts while still allowing the town to run smoothly we could not make those informed decisions. She notes that Joe Fahey stressed in a memo that this study is absolutely necessary. Councilor King asks that the council approve this study; it would be a valuable tool when making budget cuts. Councilor Pinierio feels that it is the responsibility of the Department Heads to make sure their department is running smoothly and does not support this study. Councilor Lawrence states that the study could recommend hiring new people as well. Councilor Chandler does not agree with this study and will not support it. Councilor Benson feels that as department heads it is an inherent roll as a department head to be advocate for that department. This study is an independent source of information. Councilor Benson explains that this is not a review of job performance but positions and possible duplications.

Councilor Benson moves for approval of 2005-101D as submitted

Councilor Larnard second

Roll Call Vote – 5 Yes, 3 No (Chandler, Pinierio, McMilleon)

2005-101E Cultural Center – Equipment \$10,000.00

Councilor Pinierio asks Josh Handverger if the town is paying a condominium fee to the owner of the property; Mr. Handverger does not know. Councilor Pinierio asks if the equipment is new or used and if it went out to bid. Mr. Handverger responds that the equipment is used and it will not go out to bid until the money is appropriated. Councilor Larnard feels the town needs to go forward with this. The upper millyard has been in the process of being developed for 20 years. We received a \$700,000 grant to do the landscaping and the park. This is the final piece; we have a community room for the community to use. Councilor Chandler feels the community space should be at the new Carriage Museum. The town doesn't need more space to maintain. He does not think that the lofts were sold off to artists so the space is not necessary. Councilor Larnard feels that whether or not the town should have that space is a different question. We have the space and the question is; do we want to put some chairs in it?

Councilor Chandler moves to not approve 2005-101E

Councilor Pinierio second

Councilor Benson does not understand why the council is getting hung up on a relatively small item. There is a verbal agreement from the Mayor to put the rest of free cash into the stabilization fund which he might not do if we start voting down different parts of this. We have already saved the money for the Ordway building. Councilor Chandler feels the building should be sold. President McMilleon feels there are going to be some unanticipated expenses in the Community and not the wisest choice to go ahead and approve this spending. Councilor Lawrence does not feel the need to

rush to appropriate. He asks if they had thought about fund raising first and then come to the town and asks for help. Josh Handverger states that they hope to have the center a self sustaining facility. Councilor King feels that if the ultimate goal is to be self sustaining it would seem that there is a need for chairs.

Councilor Chandler moves to not approve 2005-101E

Councilor Pinierio second

Roll Call Vote – 4 Yes, 4 No (Benson, King, Headley, Larnard)

Motion Fails

Councilor Larnard motions to approve 2005-101E for \$10,000

Councilor Headley second

Councilor Benson objects to the vote

2005-101F Economic Development – Downtown \$140,000

Councilor Lawrence moves for approval of 2005-101F for \$140,000

Councilor Benson second

President McMilleon asks for clarification on the over due bill. Mike Basque explains that this bill has been around for quite a number of years. The town was initially under the opinion that Mass Highway was going to pay it. This goes back to when the downtown was being rehabbed. The bill is for SPF construction. Mass Highway has notified the Mayor's office if it is not paid it will be deducted from the Chapter 90 funds.

Roll Call Vote – 8 Yes

2005-101G DPW Equipment \$170,000

Councilor Benson moves for approval of 2005-101G for \$170,000 as submitted.

Councilor Pinierio second

Roll Call Vote – Unanimous

2005-101H Blue Light System \$7,000

Councilor Lawrence moves to approve 2005-101H as submitted.

Councilor Larnard second

Roll Call Vote – 7 Yes, 1 No (Pinierio)

2005-104 An Order to request the Municipal Council accept and approve usage fees for Town fields and facilities under the jurisdiction of the Parks & Recreation Commission – Mayor Hildt sponsor cont.

President McMilleon reads 2005-104 into the record

Councilor Lawrence reads the recommendation of the Ordinance Committee to accept 2005-104 and to amend 1 time to read one time.

Councilor Lawrence moves to accept 2005-104 as amended by the Ordinance Committee.

Councilor Chandler second

Roll Call Vote – 7 Yes, 1 not present (Benson)

2005-106 A Request that the Municipal Council vote to designate 29 Water Street as the Town's Visitors' Center – Mayor Hildt sponsor cont.

President McMilleon reads 2005-106 into the record

Hank Brennick asks for an explanation and what costs are involved. Donna Collins from the Amesbury Alliance states that there are no costs to the town.

Councilor Lawrence moves to approve as submitted.

Councilor King second

Voted – 8 Yes

2005-114 An Ordinance for the Electronic Messaging Policy – Councilor Benson sponsor cont.

President McMilleon reads 2005-114 into the record

Councilor Chandler moves to accept 2005-114 as submitted

Councilor Pinierio second

Roll Call Vote – 7 Yes, 1 Abstain (Headley)

2005-115 An Order to appropriate \$74,000.00 for the purpose of being added to the FY2006 Law Budget (151) – Mayor Hildt sponsor cont.

President McMilleon reads 2005-115 into the record.

Councilor Benson reads the Finance Committee recommendation which was to recommend adoption as submitted and that this account not be over spent without the councils' approval.

Councilor Benson moves to fund at \$50,000

Councilor Pinierio second

Councilor King states that consistently over the past 5 years the legal expenses have been over \$100,000. She feels that \$100,000 is not excessive. Councilor Pinierio feels \$50,000 is appropriate and if more is needed let the new Mayor come before the council.

Councilor Benson moves to fund at \$50,000

Councilor Pinierio second

Roll Call Vote – 6 Yes, 2 No (Larnard, King)

NEW BUSINESS

2005-116 A Request to vote to accept Executive Order No. 469 by Governor Mitt Romney – Mayor Hildt sponsor

President McMilleon reads 2005-116 into the record and states this does not have to be referred it can be voted on tonight.

Councilor Chandler moves to accept 2005-116 as submitted.

Councilor Pinierio second

Voted – Unanimous

2005-117 Amesbury Retirement System FY06 Budget

President McMilleon reads 2005-117 into the record and states this is for informational purposes only and does not have to be voted on.

2005-118 An Order to increase the exemption amount of qualified applicants – Mayor Hildt sponsor

President McMilleon reads 2005-118 into the record.

Councilor Benson moves to refer 2005-118 to finance and schedule a public hearing at the December 13th council meeting.

Councilor Pinierio second

Voted – Unanimous

2005-119 An Order to hold the annual classification hearing – Mayor Hildt sponsor

President McMilleon reads 2005-119 into the record.

Councilor Lawrence moves to refer 2005-119 to the finance and schedule a public hearing at the December 13th council meeting.

Councilor Pinierio second

Voted – Unanimous

2005-123 Modifications to Personnel By-Law – Non-union Employees

President McMilleon reads 2005-123 into the record and states this needs to be voted on tonight.

Councilor Benson asks Mr. Handverger why the change at 25 and 28 years of service when currently it stays at 7.5% for anything above 20 years. Mr. Handverger explains it is to bring non union employees up to what some of the other unions are getting. Councilor Benson suggests that the council not approve that because they are searching for more sustainable practices in terms of contracts and he does not think that at any point we should be increasing longevity. Councilor Chandler feels that an extra 15% at 28 years is just fattening the pensions and does not think the town can afford it. Councilor Pinierio says that this increase might only affect 3 people now but down the road it could be 10 or more and that is when it will really have an effect. Councilor King shares the concerns about the 15% longevity, she feels it is excessive. She would like to see the 15% negotiated down with the other union contracts.

Councilor Benson moves to reject 2005-123 as submitted

Councilor Pinierio second

Roll Call Vote – Unanimous

Late File

2005-124 An Order to vote to appropriate \$30,000 of Free Cash to be used to make emergency repairs on the Ordway Building/Senior Center – Mayor Hildt sponsor

President McMilleon reads into the record.

Councilor Benson moves to accept the late file

Councilor Pinierio second

Voted – Unanimous

Councilor Benson moves to refer 2005-124 to the finance committee and schedule a public hearing at the December 13th council meeting.

Councilor Pinierio second

Voted - Unanimous

Communications from Boards and Commissions

President McMilleon reads a letter from Mayor Hildt asking for two Councilor's to be appointed to serve on the Fire Department Personnel and Deployment Study. Councilor Lawrence and King are appointed.

Councilor Pinierio asks Mr. Handverger to find out if the Town pays a condo fee for the cultural center and report back at the next council meeting.

Councilor Benson moves to adjourn, Councilor Lawrence second 10:30PM

Respectfully Submitted,
Assistant Town Clerk