

Amesbury Municipal Council Meeting  
7:00PM Tuesday, December 11, 2007  
Town Hall Auditorium

Call to Order 7:00PM

Pledge of Allegiance – Councilor King

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

**Public Comment**

James Thivierge, 106 Friend Street – Mr. Thivierge questions the compliance of Amesbury Charter section 2-7a. He does not believe the Town Report meets the requirements.

Allen Neale, 4 Ashley Drive – Mr. Neale submitted a letter to the Council President resigning from the Bailey's Pond Ad Hoc Committee.

Councilor King thanked the Clerk's office and the employees of the town for their assistance over the past four years. She thanked the residents of District 3 for their support. She specifically thanked the Daily News for having the courage to tell the truth about what has been happening in the community over the past 4 years.

Councilor Pinierio thanked the Clerk's office for being very cooperative. He thanked his fellow councilors for doing the right thing for the community in their own way. He urges the new council to watch the spending.

Councilor Lindstrom thanked the Clerk's office for all the work they have done for her. She thanks the public for their support of her and of the council. Councilor Lindstrom wants the new council to be aware that the current council is leaving with 56 million dollars in debt and that they tried to control the spending above the 56 million dollars.

Councilor Iacobucci – Councilor Iacobucci states he is honored to have been appointed in March and hopes he has served faithfully. He thanks the rest of the council, they have had their differences but have all worked together.

Councilor McClure thanks everyone including a lot of new people she has met while serving as a councilor. She urges everyone to stay involved, pay attention and believe about half of what you read and learn for your self. Don't let the paper dictate to you what you are supposed to believe.

Councilor Lavoie feels it is appropriate to remark on the legislative record of the current council as they are about to finish their business. There have clearly been differences with the Mayor's office and the Council majority but there has been a 90% concurrence with the requests put forward by the administration. As much as the differences and disagreements were hard to live through overall this council did its legislative business and he thanks all his colleagues for their time and attention.

**Public Hearings**

**Licenses and permits**

Councilor Iacobucci motions that all the licenses issued tonight are issued conditionally, that all town fees, fines, taxes, permits and inspections are current before the license is issued.

Voted – Unanimous

**2007-119** 2008 Common Victualler License Renewal  
Councilor Thone read 2008-119 into the record

Councilor Benson moved for approval of 2007-119 as submitted.  
Voted – Unanimous

**2007-120** 2008 Automatic Amusement License Renewal  
Councilor Thone read 2007-120 into the record  
Councilor Iacobucci moved approval of 2007-120 as submitted.  
Voted – Unanimous

**2007-121** 2008 Dine, Dance & Entertainment License Renewal  
Councilor Thone read 2007-121 into the record.  
Councilor Pinierio moved approval of 2007-121 as submitted  
Voted – Unanimous

**2007-122** 2008 Sunday Jukebox License Renewal  
Councilor Thone read 2007-122 into the record.  
Councilor Pinierio moved approval of 2007-122 as submitted.  
Voted – Unanimous

**2007-123** 2008 Inn Holders License Renewal  
Councilor Thone read 2007-123 into the record.  
Councilor Benson moved approval of 2007-123 as submitted  
Vote – Unanimous

**2007-124** 2008 Auto Class I, II, III License Renewal  
Councilor Benson abstains from the vote because of a direct financial commitment  
Councilor Thone read 2007-124 into the record striking RW Cook.  
Councilor Lavoie moved to accept 2007-124 as submitted with the exception of RW Cook.  
Voted – 7 Yes, 1 abstain (Benson)

### **Mayoral Appointments**

**2007-125** Appointment of Kristin tenBensel – Board of Health term to expire 6/30/10  
Councilor Thone read 2007-125 into the record.  
Kristin tenBensel states she is a registered nurse with 27 years of experience in a variety of settings.

Councilor Pinierio motions to accept 2007-125.  
Voted – Unanimous

### **Non Measures**

**2007-118** A Resolution to Request the Mayor Order Fairness in Billing Relative to New Water Rates Beginning November 1, 2007 and ending May 1, 2008 – Councilor Lindstrom cont.

Councilor Lindstrom motions to accept 2007-118 with the following amendments: To include the requirement of justification for the rate increase; otherwise don't increase it. She would also like the council to have an audit of the water/sewer funds done and she would like a letter sent to the DOR to look into it.

Mayor Kezer states the certified free cash of \$320,000 is capital funds within the enterprise. The DOR certifies the capital accounts. The council authorized \$500,000 to go towards the test pilot program

for the new water treatment plant. Out of that half million dollars \$250,000 has been spent on that pilot program, the balance of \$250,000 is unexpended and that is what DOR certifies. The balance is the prior year capital fund that they are certifying, unexpended capital funds and that is what makes up the \$320,000. The capital account is separate from the operating budget of the water plant. That ended the year at about a \$60,000 deficit. For DOR certification they look at what the rates are times the usage, equals the dollars raised that has to equal the dollars expended. There was a significant drop in usage because of the wet season the revenues were under what we had estimated for last year creating the \$60,000 deficit. Under DOR rules we have to make up that deficit. Either adjust the rates and show the DOR that those rate adjustments will bring us back up to fund the operation or the burden has to be put on the tax rate. We chose to do the rate adjustment and withholding \$100,000 in expenditures. The certified free cash is relative to the capital budget of the water system, the deficit is relative to the operating budget and you don't cross capital over to operating.

Councilor Thone asks Mayor Kezer how he feels about people being billed the new rate when the usage was at the old rate. Mayor Kezer states the way the system is set up everyone gets billed twice a year. There are six groupings of billings. As far as setting a date for a rate change there will always be some people at mid-cycle, at the end or the beginning of the cycle. Just like any other utility at some point you have to pick an effective date. There is not a mechanism to determine how much water was used during the first three months if the rate increase falls in the middle of a cycle. We are currently working on changing to a quarterly or monthly billing system to shorten the window.

Councilor Lindstrom amends her motion to accept the resolution as presented and asks the Mayor to bill the water customers fairly. Voted – 4 Yes, 4 No (Benson, Lavoie, King, Thone)

### **Public Hearings**

**2007-114** An Order to accept \$80,000 from Financing the Repair, Renovation and Construction of Municipal Police Stations grant program – Mayor Kezer sponsor cont.

Councilor Thone read 2007-114 into the record and opened the public hearing.

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

Public Hearing closed

**2007-116** An Ordinance to amend Article Five – Town Clerk/Clerk to the Municipal Council – Councilor Iacobucci cont.

Councilor Thone read 2007-116 into the record and opened the public hearing and closed the public hearing.

**2007-117** An Ordinance to amend Article 98-181 – Maintenance of Unaccepted Streets and to provide snow & ice removal – Councilor Iacobucci sponsor

Councilor Thone read 2007-117 into the record and opened the public hearing.

Chip Lynch, 13 Elizabeth Street – Mr. Lynch spoke in favor of snow and ice removal for Elizabeth Street. He believes Elizabeth Street fits the exact same criteria as all the other private ways that are receiving services.

Councilor King states the developer for the odd side of Elizabeth Street chose not to build to conforming regulations and if the council votes in favor of 2007-117 it will open the door for developers to come into the community and build non conforming roads. Mr. Lynch does not believe that would happen because all new developments would be under a new zoning by law that addresses common access driveways.

Councilor Benson believes that Elizabeth Street should be getting services as per 2000-197.

Nathan Able, 74 Middle Road – Mr. Able states he lives on Middle Road, a private road with three homes and is asking for snow removal and basic services.

Councilor King asks Mayor Kezer how many other private ways there are in town similar to Elizabeth Street and Middle Road prior to the 2000 zoning change. Mayor Kezer does not have exact numbers. He states he is working on a rational type of process to make decision relating to private ways. He is asking the DPW Director to come up with criteria for private roads in which the town will agree to provide services for. He would like to have coherent policy in place before making this decision.

Denis Brody, Merrimac Planning Board – Mr. Brody feels the town should plow the street because it is a safety issue.

Mike Greaney, 50 Orchard Street – Mr. Greaney feels the people on Elizabeth Street and Middle Road are paying taxes and should have their street plowed because of safety.

Ed Tivnan, 23 Elizabeth Street – Mr. Tivnan is asking for equity and fairness so he can continue to pay his taxes.

Councilor Thone closes the public hearing.

**2007-085** An Order to approve payment of a prior fiscal year invoice from current fiscal year appropriations – Mayor Kezer sponsor cont.

Councilor Thone read 2007-085 into the record and opened the public hearing and closed it.

**2007-088** An Order to appropriate \$1,000,000 for Capital Expenditures – Mayor Kezer sponsor cont.

Councilor Thone read 2007-088 into the record and opened the public hearing and closed the public hearing.

**2007-089** An Order to Revise Amesbury's Zoning Bylaw Sections – VI, XI.O and XIV – Mayor Kezer sponsor cont.

Councilor Thone read 2007-089 into the record and opened the public hearing.

Councilor Lavoie states the Town Planner and the Building Inspector put this bill together. Ordinance and the Planning Board reviewed it and submitted their recommendations and changes to them. He went on to discuss the content of the bill and the changes.

Councilor Iacobucci makes a statement for the record that he lives in the water resource protection district so he did not participate as a member of the ordinance committee and will not vote on that section.

Councilor Benson states he will be abstaining from the vote because he also lives in the water resource protection district.

Councilor King asked Councilor Lavoie if the Planning Board would approve the final version. He states he does not know because there have been minor changes made to their recommendations however; Nipun Jain and Denis Nadeau did approved of all the changes. Councilor King suggests as a courtesy to send the bill back to the Planning Board for them to approve all the changes. Councilor Lavoie states their appointed administrative person; Nipun Jain reviewed all the changes and approved them. Councilor Iacobucci and Councilor Lindstrom assured Councilor King that the additional changes were minor and nothing of substance.

Councilor Thone asks if the document they are going to vote on includes all of the Planning Boards voted changes. Councilor Iacobucci responds yes plus amendments.

Councilor Thone closed the public hearing.

## **Second Readings**

**2007-117** An Ordinance to amend Article 98-181 – Maintenance of Unaccepted Streets and to provide snow & ice removal – Councilor Iacobucci sponsor  
Councilor Thone read 2007-117 into the record.

Councilor McClure read the recommendation of the Finance Committee to adopt 2007-117 as submitted and made it her motion.

Councilor Iacobucci read the recommendation from the Ordinance Committee and made it as an amendment to Councilor McClure's motion:

Change the title to read:

An Ordinance relative to maintenance of certain unaccepted streets and to provide snow and ice removal there from.

Delete the existing Section 1 and re-number existing Section 2 to Section 1.

Amend it to read as follows:

Section 1. The road currently serving Middle Road #72, #74 and #76 and the road currently serving Elizabeth Street #13, #15, #17, #19, #21, #23, #25 and #27 shall be eligible for expenditure of public funds for the removal of snow and ice from private ways open to public use in accordance with MGL, Chapter 40, §6c and measure 2000-197.

Re-number existing Section 3 to be Section 2.

Amend it to read as follows:

Section 2. The road currently serving Middle Road #72, #74 and #76 and the road currently serving Elizabeth Street #13, #15, #17, #19, #21, #23, #25 and #27 shall be eligible to be maintained by the town as provided for by MGL, Chapter 40, §6N and as set forth in 98-181.

Councilor McClure amends her motion.

Councilor Lavoie believes from 2000 on the common access driveways have been straightened out in the zoning ordinance. He states it is hard to say that the streets in 2000-197 are different than the two

streets in bill 2007-117. If he does vote in favor of it, it would be for this winter only and give the administration an opportunity to put a policy in place.

Councilor King states she will be abstaining because she does not feel the council has enough information to make an informed decision.

Councilor McClure believes it is a matter of fairness, she will support this measure.

Councilor Benson thinks that because of 200-197 Elizabeth Street should be getting plowed.

Councilor McClure motioned to accept 2007-117 as amended by Ordinance.  
Voted – 7 Yes, 1 abstain (King)

**2007-114** An Order to accept \$80,000 from Financing the Repair, Renovation and Construction of Municipal Police Stations grant program – Mayor Kezer sponsor cont.

Councilor Thone read 2007-114 into the record

Councilor McClure read the recommendation from the Finance Committee to adopt 2007-114 as submitted she moved the recommendation of the Finance Committee.

Roll Call Vote – 8 Yes

**2007-116** An Ordinance to amend Article Five – Town Clerk/Clerk to the Municipal Council – Councilor Iacobucci cont.

Councilor Iacobucci moved the recommendation of the Ordinance Committee:

**The fourth whereas clause should read as follows:**

whereas the majority of such offices in other cities are for three years and until a successor is qualified; and

**Section 1. Article 5, 5.1, Paragraph 1, line 1;**

**Insert after the words** by a majority vote of the entire council,

**Section 1. Article 5, 5.1, Paragraph 2, line 2;**

**Replace the word elected with** appointed

**Article 5 Section 5.4, should read as follows;**

5.4 It shall be the duty of the Town Clerk to see that every instrument of conveyance to the Town of any interest in real estate filed with the Town Clerk's Office is properly recorded in the Registry of Deeds. After recording and returned to the Town Clerk, such recorded instruments shall be turned over to the Town Treasurer, in whose custody they shall remain.

Voted – Unanimous

**2007-085** An Order to approve payment of a prior fiscal year invoice from current fiscal year appropriations – Mayor Kezer sponsor cont.

Councilor McClure read the recommendation from the Finance Committee to approve 2007-085.

Councilor Lavoie moved the recommendation of the Finance Committee to adopt 2007-085 as submitted.

Roll Call Vote – Unanimous

**2007-088** An Order to appropriate \$1,000,000 for Capital Expenditures – Mayor Kezer sponsor cont.

Councilor McClure read the recommendation of the Finance Committee to reject 2007-088 and send it back to the Mayor.

Councilor McClure moved the recommendation of the Finance Committee.

Roll Call Vote – Unanimous

**2007-089** An Order to Revise Amesbury's Zoning Bylaw Sections – VI, XI.O and XIV – Mayor Kezer sponsor cont.

Councilor Lavoie asked to divide 2007-089 into two parts – Voted Unanimous

Councilor Lavoie motioned Part 1 to adopt the revisions as set forth in the hand out that is labeled 12/11/07 changes with respect to parts 1 and 2 of the original bill which deal with Section 6 Dimensional and Density and Section 11.0 Common Access Driveways.

Roll Call – 7 Yes, 1 No (Thone)

Councilor Lavoie motioned Part 2 – changes as set for in the document 12/11/07 changes

Roll Call - 6 Yes, 2 Abstain (Benson, Iacobucci)

Correspondence

**2007-126** 2008 Municipal Council Meeting schedule

Councilor Lavoie moved adoption of 2007-126 as presented.

Voted – Unanimous

Councilor Benson adjourn 10:10

Respectfully Submitted,  
Assistant Town Clerk